

FCC AUTHORIZATION

HEARING

BEFORE THE

SUBCOMMITTEE ON COMMUNICATIONS

OF THE

COMMITTEE ON COMMERCE,
SCIENCE, AND TRANSPORTATION
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

S. 607

TO AMEND THE COMMUNICATIONS ACT OF 1934

MARCH 9, 1983

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FCC AUTHORIZATION ACT OF 1983

WEDNESDAY, MARCH 9, 1983

U.S. SENATE,
SUBCOMMITTEE ON COMMUNICATIONS,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9 a.m., in room 232-A, Russell Senate Office Building, Hon. Barry Goldwater (chairman of the subcommittee) presiding.

Staff members assigned to this hearing: Riley Temple, staff counsel, and Thomas W. Cohen, minority staff counsel.

OPENING STATEMENT BY SENATOR GOLDWATER

Senator GOLDWATER. The meeting will come to order.

I am pleased to welcome you to the Communications Subcommittee hearing on S. 607, the Federal Communications Authorization Act of 1983. I am particularly pleased to extend greetings to Mark Fowler, Chairman of the FCC.

When this subcommittee first began its deregulatory efforts under my chairmanship, we knew we needed a strong, cooperative leader at the helm down there at the Commission. The FCC, under Mr. Fowler's leadership, has proven to be most cooperative and responsive in implementing the policies of this subcommittee and the Congress and the President in general.

I am pleased, and I know that I express the feelings of my colleagues on this committee, that the cooperative relationship is working quite well.

This bill, S. 607, is the second authorizing legislation for the FCC that this committee has considered and will pass. Its purpose is to give added emphasis to the continuing oversight responsibility of this committee in insuring that congressional policy is carried out in the way Congress actually intended.

It is only with this type of structured and periodic review on the record that we build the basis upon which there can be meaningful assessment of the deregulatory accomplishments we have and will continue to make.

I thank Chairman Fowler and his fellow Commissioners for their efforts and exhort them to continue the fine work they have begun.

Senator Stevens will be along later, but I will insert his opening statement along with an opening statement by Senator Hollings in the record at this point.

[The statements and bill follow:]

OPENING STATEMENT BY SENATOR STEVENS

I will limit my comments today to a subject of the utmost importance to Alaska and to the Nation. Recently the Federal Communications Commission decided Docket No. 78-72, determining the access charges. In light of the recent development between the United States and AT&T whereby AT&T has become, to a great extent, a deregulated entity, this decision protends unprecedented potential impact on the rate structures for the telephone industry in this country.

I am particularly concerned with the effect of this decision on high-cost telephone exchanges throughout the United States. These exchanges tend to be in the more remote areas of the country. In my opinion, a largely disparate price between urban and rural portions of this country will result in direct violation of the driving principles of our communications systems, namely universal service at reasonable rates.

I appreciate the Federal Communications Commission's effort to resolve this very complex and controversial issue in their 78-72 docket. However, I am not yet persuaded that the necessary protections are in place to avoid creation of a second class communications user group in this country. Deregulation of telephone rates is not equivalent to what we attempted in airlines, railroads or trucking. The national telephone system is a service that is essential to all Americans. In my opinion, it is the duty of this Government to insure all Americans receive, to the greatest extent possible, access to basic telephone service at reasonable rates.

I have some specific concerns with 78-72. Perhaps the most disturbing aspect of the decision is that it was not done with a specific implementation by the Joint Board in place. We now have what could be termed as a "cart before the horse" situation. There is a methodology set forth with no certainty as to implementation. Therefore, all telephone users are very much dependent upon the discretion of the Joint Board and the FCC. Representing the State that has the highest interstate toll in the Nation, I am tremendously aware of the need to remain a part of an effective cost sharing program applicable nationwide. Under current separation and settlement arrangements we have that protection through a national pool.

It is my conviction the Congress must closely monitor this situation, and, if necessary, legislate a permanent solution. I will be watching with great interest the actions of the Joint Board and the FCC to provide assurances to states with the rural populations. By the way, that includes virtually every State in this union. If this country moves toward a cost assignment principle for allocation of plant costs for telephone service, every State in the Union would have tremendous divergence in costs spread among citizens in different geographic settings within the State. I hope to work with the Federal Communications Commission, the Joint Board and the Committee to derive an acceptable approach to address this critical national question. In fact, I am currently looking at legislation similar to the solution proposed by S. 898, which passed the senate last year. Thank you for allowing me to present this statement to the committee.

OPENING STATEMENT BY SENATOR HOLLINGS

In 1981, the Congress decided to increase its oversight of the Federal Communications Commission by instituting a two-year authorization process. I believe the first biennial authorization legislation proved most useful in further ensuring a Congressional imprimatur on telecommunications policy. I expect this current legislation to prove as beneficial.

The Commission is to be commended for many of its actions over the past 2 years. I wish to particularly commend the Commission and its Common Carrier Bureau staff on its work in the Computer II implementation, the Competitive Carrier Rule-making, and the Access Charge decision. All of these proceedings were very important and demanding. I hope this good work continues. I will be looking closely at the implementation of the access charge, especially the design of the Universal Service Fund, the proceeding on the AT&T divestiture, and the various dockets to create competition in the international arena.

While the Commission's overall record is commendable, I have serious problems with the very long time it has taken to authorize new services. In the Commission's semi-annual agenda of last May, it expected to complete by the end of fiscal year 1982 the proceedings on VHF Drop-Ins, the Use of the FM frequency (No. 80-90), Teletext, and UHF stations for New Jersey. As of the middle of fiscal year 1983, none have been completed. Such a record is most disappointing and troubling.

As for low power television, I am concerned about the Commission's speed of processing. In the testimony of the Chairman given to me yesterday, he stated that by later this year the Commission should be granting a minimum of 25-35 licenses per

month. In January, the Chairman told Congressman Dingell he expected to grant about 110 licenses per month. I am quite curious as to why there is such a discrepancy. It only serves to increase my concern about the Commission's progress in this area. Congress has spent much effort to ensure the Commission processes these licenses expeditiously. Such an effort should not be wasted.

The Chairman made much of the Commission's contribution to national prosperity and jobs in this testimony last week before the Senate Appropriations Subcommittee that oversees the FCC. He correctly recognized there the importance of new services to economic growth. Yet, despite some success and much rhetoric, the Commission continues to be a bottleneck for new services. This is an issue that must be dealt with in this authorization legislation.

Finally, I am greatly concerned about the Commission's, and, in particular, the Chairman's, commitment to effectively administering and enforcing the political broadcasting laws. We all know that the Commission has recommended the repeal of these laws. (It, however, sent no evidence as to the state of competition in these political broadcasting markets nor did it cogently argue why its view of the First Amendment and these laws is correct and the Supreme Court's wrong.) While Commissioners may claim they will faithfully execute the laws, I cannot but help to be extremely wary of those advocating repeal also overseeing the effectiveness of the laws. To add credence to my cause for concern, the Commission has made the administration and enforcement to these laws a "C" priority. There are no lower priorities.

The Commission has before it a petition for Declaratory Ruling by CBS et al. I will be watching this proceeding, along with the other political broadcasting activities, very carefully.

[98th Congress First Session, S. 607]

A BILL TO AMEND THE COMMUNICATIONS ACT OF 1934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6 of the Communications Act of 1934 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATION

"Sec. 6. There are authorized to be appropriated for the administration of this Act by the Commission \$76,900,000 for each of the fiscal year 1982 and 1983, and \$86,400,000 for each of the fiscal year 1984 and 1985. Sums authorized by the preceding sentence shall be in addition to such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs."

Senator GOLDWATER. Mr. Fowler, as usual, if you want to submit your statement for the record and not read it, it will be printed in full.

Mr. FOWLER. All right, sir.

Senator GOLDWATER. The floor is yours.

STATEMENT OF HON. MARK S. FOWLER, CHAIRMAN, FEDERAL COMMUNICATIONS COMMISSION, ACCOMPANIED BY ED MINKEL, MANAGING DIRECTOR, AND GARY EPSTEIN, CHIEF, COMMON CARRIER BUREAU; LARRY HARRIS, CHIEF, MASS MEDIA BUREAU; JIM McKINNEY, CHIEF, PRIVATE RADIO BUREAU; BRUCE FEIN, GENERAL COUNSEL; RICHARD SMITH, CHIEF, FIELD OPERATIONS BUREAU; TOM CAMPBELL, ASSOCIATE MANAGING DIRECTOR FOR OPERATIONS; ROBERT POWERS, ACTING CHIEF SCIENTIST; AND PETER PITSCH, CHIEF, OFFICE OF PLANS AND POLICY

Mr. FOWLER. Thank you.

Good morning, Mr. Chairman and members of the staff.

I want to thank you certainly, sir, for those kind words. I think that I ought to repeat what I said in my confirmation hearing that what we have done to deregulate, we have shown that the consumer, that the common man definitely benefits. It goes back quite some way. In fact, it goes back to 1964. That was the charter that started it all. I hope you share with me the enthusiasm of seeing what happens when we unleash some of those competitive marketplace forces you talked about so long ago, and the benefits to the common man.

Senator GOLDWATER. It was a long time ago.

Mr. FOWLER. Nonetheless, we can see, whether it is airline fares or calling you on the telephone, now the people are getting better things at less expensive costs and more choices. I think that is something we need to keep in mind, that we can point now to your philosophy, benefitting in concrete terms, the people of our country; and I think that is important.

Mr. Chairman, I would like to thank you for this opportunity to present the views of the FCC of S. 607, a bill authorizing \$86.4 million in appropriations for the Commission for each of the fiscal years 1984 and 1985.

To help answer your questions I am accompanied this morning by the Commission's senior staff members. They are Ed Minkel, our Managing Director; Gary Epstein, our Chief of the Common Carrier Bureau; Larry Bureau, our Chief of the Mass Media Bureau; Jim McKinney, Chief of the Private Radio Bureau; Bruce Fein, our new General Counsel; Richard Smith, the Chief of our Field Operations Bureau; Tom Campbell, Associate Managing Director for Operations; Robert Powers, our Acting Chief Scientist, and Peter Pitsch, Chief of our Office of Plans and Policy.

When you introduced S. 607 on February 28, 1983, Mr. Chairman, you stated that, "Periodic authorization gives the Congress an opportunity to supplement the ongoing oversight of the FCC's implementation of congressional policy with regularly scheduled expiration of the authorization."

You added that, "Through this process, the FCC must justify its continual activities and the appropriate level of those activities."

Well, I welcome the opportunity to do so this morning, Mr. Chairman. Very briefly, I would like to report to you on how we have implemented congressional policy within our existing budget and how we can anticipate doing so under the proposed authorized appropriations in S. 607. I will specifically focus on three areas.

One, Commission actions that are fostering technologically advanced and economically efficient telecommunications services; two, Commission implementation of communication statutes recently enacted by the Congress, including the Communications Amendments Act of 1982, the Record Carrier Competition Act of 1981, and the New Jersey VHF Amendment in the Tax Equity and Fiscal Responsibility Act of 1982; and finally, three, Commission views on coordination and conduct of international telecommunications policy.

I became Chairman in May of 1981, shortly before the onset of our first 2-year periodic authorization which expires this October. Since that time we have made substantial progress in implement-

ing five management objectives we established for managing the Commission.

These five objectives and our specific accomplishments under each are briefly summarized in attachment A to my testimony. It is not by any means totally complete but simply illustrative.

In my judgment, our objectives promote congressional telecommunications policy, particularly as enunciated by this subcommittee. For example, our first objective is to promote as unregulated, competitive, telecommunications marketplace. Closely associated with this goal is the objective of eliminating or reducing unnecessary regulation and paperwork burdens.

The bulk of the Commission's deregulatory accomplishments have occurred through rulemaking. The FCC has acted both to encourage entry of new service technologies and to remove unnecessary restrictions and paperwork burdens from existing services. For example, since May 1981 the Commission has authorized new telecommunications services, including low-power television, AM stereo, and the digital electronic message service. It has conditionally authorized nine applicants to construct direct broadcast satellite systems and authorized the provision of cellular mobile telephone service, that is phones in cars.

Following an earlier decision to deregulate radio broadcasting, the Commission also has acted to deregulate subscription television, proposed to deregulate auxiliary television stations and non-commercial radio and television, and continues to make progress in creating an unregulated marketplace for telephone equipment and interstate telephone service. We have been especially active in the telephone area where court decisions, the AT&T Justice Department consent decree, and associated decisions by the FCC will mean the availability of both old and new services under a less-regulated structure or unregulated structure.

Last December, for example, we adopted a new pricing system for long distance access to the local subscriber with the purposes of assuring universal service in eliminating discriminatory rates, encouraging network efficiency, and preventing uneconomical bypass of local distribution facilities.

We have also adopted plans to deregulate telephone equipment and the enhanced services market, and restructure telephone company depreciation rates to accelerate introduction of new equipment. With your support, Mr. Chairman, and sufficient budget resources, we hope to continue to authorize new telecommunications services and deregulate existing ones in fiscal years 1984 and 1985.

The new telecommunications services we have already authorized or plan to authorize should significantly increase sources of news, information and entertainment for the American public.

In the broadcast area, for example, the Commission in less than 2 years has already received 8,000 low power television applications, which is 8 times the total number of VHF and UHF television licenses that have been granted since 1934. We have already granted 327 construction permits and licenses for these new stations, or about one-third of the entire number of commercial television stations already on the air.

Within existing resource constraints I intend for the Commission to move forward as expeditiously as possible with both the low

power TV and FM radio proceedings. We are keenly aware, for example, of the need to process promptly the low power television applications, and will do so as soon as we have resolved a number of problems which have emerged regarding computer processing and the proposed lottery procedures.

The Commission is currently scheduled to consider these lottery procedures for final adoption at our next meeting on March 31. On March 2, 1983, the Commission submitted a brief written discussion of these LPTV problems and our plans for correcting them to the House Appropriations Committee. I have attached that discussion to my testimony as attachment B.

Despite these LPTV problems, however, the bottom line is that we are on target for computer processing of the remaining LPTV applications by this summer. At that time we will be able to identify and return those pending applications which interfere with existing transmitter stations or with full service facilities. Then we will identify groups of mutually exclusive applications and implement the lottery procedures. This effort will continue through fiscal year 1983 and thereafter.

Once the computer program and lottery process become established and overcome any additional processing lag, we should be processing approximately 250 to 350 LPTV applications a month with a minimum of 300 to 400 additional LPTV grants expected in the first year.

I might add here, Mr. Chairman, that our \$86.4 million budget request for fiscal year 1984 includes \$1,630,000 for program increases, of which \$751,000, or nearly half, is for our computer program.

A second additional service on our agenda during fiscal year 1983 and conditionally into fiscal 1984 and 1985 will be additional FM stations. The Commission has before it a Notice of Proposed Rule-making which proposes to increase the availability of FM outlets in many areas throughout the United States. The current fiscal year 1984 budget request pending before you does not include resources specifically designated to cover the impact of implementing additional FM services as envisioned in the Notice of Proposed Rule-making.

When the Commission evaluates the record and the docket, it will, therefore, have to evaluate resource alternatives, including allocating positions and funds from within the Mass Media Bureau, requesting a fiscal year 1984 budget amendment or delaying implementation until resources become available.

Incidentally, we do intend to act on that matter very soon, within a matter of, I would say, 60 days or less.

I would like to turn now to a second area of focus this morning: Commission implementation of congressional policy as embodied in three recent statutes—the Communications Amendments Act of 1982, the Record Carrier Competition Act of 1981, and the so-called Bradley amendment regarding New Jersey VHF television service enacted as part of the Tax Equity and Fiscal Responsibility Act of 1982.

Our progress in implementing the three statutes is summarized in attachment C to my testimony. At this time I would just like to

comment briefly on our implementation of the Communications Amendments Act of 1982.

We have sought, both through legislation and administrative reforms, to eliminate unnecessary regulations and outmoded policies as well as enhance marketplace competition. Thus, we recognized at the outset that the achievement of mutual Commission and congressional objectives could be thwarted under the existing statutory framework.

After careful study, the Commission formally adopted and delivered to Congress proposed amendments to the Communications Act known as our "track one" legislative package. Long before we delivered this package to Congress, Mr. Chairman, you introduced the Amateur Radio Service and Private Land Mobile and Fixed Services Act, S. 929. That bill, which passed the Senate in September of 1981, was the important first step leading eventually toward enactment of the Communications Amendments Act of 1982.

This legislation consisted primarily of the amateur radio and frequency interference provisions of the Goldwater bill, together with the Commission's "track one" proposals. Without the support of you, Senator Packwood and others, this act would never have become law.

The Communications Amendments Act of 1982 was primarily intended to streamline important Commission functions and improve Commission efficiency. The legislation will also help us eliminate unnecessary rules as well as save substantial resources. For example, elimination of individual citizens band (CB) and radio control (RC) licensing will save the Government about \$400,000 annually.

Enactment of all the track one amendments is estimated to result in a net savings of approximately \$1 million in salaries, related personnel benefits and other operating costs. These funds will be redirected to support more pressing regulatory needs of the Commission, particularly in the common carrier area.

Our third subject this morning is coordination of international telecommunications policy. I would like to comment briefly, Mr. Chairman, on how we view Government coordination and conduct of international telecommunications policy.

In the years ahead, international negotiations on telecommunications will be increasingly important to the country. As we move into an era when vast amounts of information will be transmitted with incredible swiftness, American government and industry will have a heavy stake in the decisions that must be made through the International Telecommunications Union, as well as in other bilateral and multilateral forums.

In my 2 years at the Commission I have had the opportunity to observe and participate in the planning for several meetings that were important to our telecommunications future. In my judgment the process has worked reasonably well.

Within the Commission I have established the position of Assistant for International Communications. His coordination of international matters within the Commission serves as a focal point for external coordination with other international agencies and has served to keep all Commission elements informed as well as enhanced the Commission's ability to plan and coordinate interna-

tional matters. It has also provided the basis for a cohesive policy on international telecommunications issues.

External to the Commission, I understand the Department of State has designated a coordinator for international telecommunications and information policy within the Department. This should improve the overall coordination process.

However, Mr. Chairman, I urge this subcommittee to continue to give its close attention to the process of preparing for international negotiations and to explore structural or other improvements to this process. For example, consideration, I think, should be given to an ongoing entity to oversee and coordinate overall executive branch preparations and policies regarding international telecommunications issues in close consultation with the Commission.

Such an entity headed by an experienced individual would enable this country to prepare for the important decisions that must be made. I pledge to you that we stand ready to help in any way possible in that endeavor.

Mr. Chairman, that concludes my prepared testimony. We stand ready to answer any questions that you might have.

[The attachments referred to follow:]

Attachment AAccomplishments of the Federal Communications Commission
Under Management by Objective System: May 1981-March 1983

OBJECTIVE 1

- o To create, to the maximum extent possible, an unregulated competitive marketplace environment for the development of telecommunications.
 - Since May of 1981, the FCC has approved new services including:
 - Communications satellites that will be able to broadcast directly to the home
 - One Way Paging in new frequency bands, dramatically increasing the number of channels available
 - AM Stereo
 - Low Power Television which will greatly expand the opportunities for new TV service
 - Cellular Mobile Telephone which will provide quality telephone service in automobiles.
 - Digital Electronic Message Services (DEMS) which will permit an efficient high speed communications alternative to the traditional wire-based telephone system.
 - Made further progress in creating an unregulated marketplace for telephone equipment and long distance service.
 - Adopted a new pricing system for long distance telephone calls (the access charge) with the purpose of assuring universal telephone service, eliminating unjust rates, encouraging network efficiency and preventing uneconomic by-pass of the local telephone network.
 - Adopted and implemented a plan to deregulate the telephone equipment and enhanced services market also permitting AT&T to enter those markets unregulated.
 - Assisted in developing the antitrust settlement between the Justice Department and AT&T.
 - Restructured telephone company depreciation rates to allow for faster introduction of new telephone equipment, thereby encouraging improved service.
 - Implemented the Record Carrier Competition Act of

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1981 which will promote more competitive international and domestic record (telegraph) markets.

- Authorized the sale of satellite circuits on a non-common carrier basis.
- Deregulated resale-common carriers

OBJECTIVE 2

- o To eliminate unnecessary regulations and policies.
 - From FY 1981 to FY 1983, we reduced agency paperwork burdens by over 84% from 49.8 million to 8 million burden hours. We were the leader among Federal independent regulatory agencies in reducing paperwork.
 - Established a Master Regulatory Review Plan for reviewing every Commission rule and regulation within the next three years and set in motion the process whereby many may be eliminated.
 - Began implementation of new legislation that will reduce the regulatory burden. Some of the major provisions include delicensing of CB radio, use of lotteries to speed licensing of communications systems and the use of volunteers to give FCC amateur radio license exams.
 - Eliminated licensing requirements for first class radiotelephone operators; eliminated several financial reports for commercial broadcasters and radio common carriers.
 - Eliminated, or proposed elimination, of over-the-air pay TV rules, broadcast station trafficking rules that placed limitations on ownership changes, ownership rules for television networks and cable systems and ownership rules for telephone companies and cable systems. Several annual reports imposing significant paperwork burdens were also eliminated.
 - Streamlined process for authorizing new radio equipment permitting easier introduction in the marketplace.

OBJECTIVE 3

- o To provide service to the public in the most efficient, expeditious manner possible.
 - Created the position of Managing Director and implemented an agency wide Management-by-Objectives (MBO) system to focus agency efforts to run the agency in a more businesslike manner.

- From 1980 to 1983, reduced agency personnel by over 16% from 2,225 workyears to 1859 workyears. A leader among federal independent regulatory agencies in reducing personnel.
- Reduced average application processing time in Private Radio Bureau from 49 days to 26 days. Improved productivity in the Private Radio Bureau Transfer Division by 30%.
- Improved productivity of granting new and major broadcast applications by 64% and reduced processing time by 42% with 10% fewer employees.
- Required prompt responses to public and Congressional inquiries.
- Is in the process of implementing a lottery system of license authorization approved by Congress per FCC request as an alternative to cumbersome quasi-judicial hearings.
- Reorganized the Broadcast Bureau and Cable Television Bureau into one consolidated Mass Media Bureau eliminating duplication of functions and promoting efficient operations.

OBJECTIVE 4

- o To promote the coordination and planning of international communications which assures the vital interests of the American public in commerce, defense and foreign policy.
 - Created the position of Assistant to the Chairman for International Communications and Established the International Telecommunications Coordinating Committee
 - Planned representation of U.S. interests in international meetings concerning allocation of Radio Frequency Spectrum.
 - Manned representation of U.S. interests in international meetings concerning telephone and record (telegraph) carrier facilities planning.
 - Authorized increased domestic and international telex competition by permitting Western Union and the international record carriers to compete in all markets.
 - Authorized Comsat to provide service directly to end-user customers.
 - Authorized both AT&T and the international record carriers to provide voice and data services domestically and internationally, breaking down long-time restraints on such offerings.

OBJECTIVE 5

- o To eliminate government action that infringes the freedom of speech and the press.
 - Proposed legislation reducing Government involvement in content regulation, by removing reasonable access, equal time, and Fairness Doctrine provisions.
 - Instituted an Inquiry into a less restrictive interpretation of the equal time rules.
 - Instructed the General Counsel to examine Commission regulations imposing restrictions on freedom of speech and recommend strategies for ending them.

Discussion of Status of Low Power Television Proceeding
Submitted to House Appropriations Committee, March 2, 1983

- The following sets forth a narrative as to the current status of the low power television service, including projections through FY 1983. It encompasses a discussion as to the numerous and generally unforeseen problems which have emerged regarding computer processing and the proposed lottery procedures. Both areas will affect significantly the movement of low power television applications for the remainder of the fiscal year.
- The Appropriations Subcommittee stated in its Report on the FY 83 budget that it expected the allocation of funds for 15 additional positions and a minicomputer system and the authorization of procedures for random selection of applicants to "greatly increase the number of applications processed." In this regard, the Committee contemplated that once the computer system is operational, but no later than May 1983, the Commission should process 260 applications per month. Prior to that date, the Committee estimated processing at approximately 35 applications per month.
- The computer for technical processing: The DEC computer and associated hardware purchased specifically for LPTV use has been received by the Commission. Installation was accomplished during the month of January. Further, the development of programs necessary to inaugurate technical computer processing are well underway. "Debugging" computer runs were conducted on rented computer space during December and January. Thus, the necessary hardware and software will be available for computer operation as scheduled.
- However, a substantial and serious problem is presented by the incomplete FCC data base pertaining to the approximately 5,000 existing translator licensees. Detailed technical information is required regarding these licensees in order to ascertain their protected contours and thus where low power television stations may be placed. Unfortunately, the necessary information is for the most part not presently in Commission files. A special task force has been established to address the data base problem. They have already reviewed 4,700 licensed translator and construction permit files and have sent letters to 3,400 licensees and permittees requesting assorted technical information, including radiation patterns and related antenna information. As stated previously, this information is absolutely essential in order to establish protected contours for licensed translators. Thus far, the Commission has received only 300 responses of which only 100 provided usable information. In view of this dismal showing, tough measures are necessary. Within the next few weeks, an item will be circulated for Commission consideration that will propose the establishment of specified protected contours for those stations that have failed to respond to Commission inquiry with actual contour information. ^{1/} Resources of the low power television staff are presently directed toward this data base project.

^{1/} The translator service has in the past behaved in large part as an unlicensed service. For example, some stations have changed ownership without Commission approval, and licensees have not maintained accurate address information on file with us.

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- A further data base related problem centers around the 4,000 pending LPTV applications that have specified directional antennas. For these applicants we need a polar diagram of the proposed radiation patterns of the directional transmitting antenna. Only with this information can we make the most efficient use of the spectrum.
- At present a task force composed of the low power television staff and some Enforcement Division personnel has been established to review the 4,000 pending applications, and to secure the necessary polar diagrams. Pending applications that are not amended with the required information will be returned as incomplete.
- Other data base projects necessary to make the computer operational include a review of numerous pending applications for full-service stations and that of full-service licensees and permittees, in order to determine their respective antenna patterns. This information is necessary in order to compute protected contours for these facilities. Resources from the Policy and Rules Division have been allocated for this project which is now underway.
- As indicated above, the entire low power television staff (Video Services Division), as well as resources from the Enforcement and Policy and Rules Divisions are now allocated to the above data base projects. We emphasize that these projects are absolutely essential to computer processing. A time delay is inherent in these projects because they involve securing information from licensees, permittees and applicants and then processing that information. Nevertheless, our target date for completion of all such projects is April 15, 1983.
- In view of the fact that the Low Power Television Branch staff is for the most part allocated to assist in the above-referenced projects, the number of applications that have been manually processed toward grant has not met Congressional expectations. Many more than 35 applications have been "processed" per month; however, for the most part, this has resulted in the return of improper or incomplete applications. Most complete and sufficient applications processed appear to be mutually exclusive with several other pending applications or full service facilities.
- The only working computer tool the Low Power Television Staff has had available to help process pending applications is a program based upon worst case technical assumptions and values. Once a more accurate computer data base and program is available, additional "grantable" applications may be identified. However, our experience reveals that once an applicant is put on the cut-off list, mutually exclusive applications are filed against it. In view of the above, the staff has been able to "process" more than the number of applications projected by the Committee, but this processing has not translated into grantable applications.

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- * Lottery: The Video Services Division, in conjunction with the General Counsel's office, is in the process of preparation of an item for Commission consideration that would authorize certain lottery procedures, including the minority and diversity preference factors required by Congress. At this time, and in conjunction with the proposed item, a lottery computer program is being prepared. However, a detailed analysis of the necessary computer software and hardware required has not yet been accomplished. After adoption of the lottery procedures by the Commission in late February, equipment necessary for the actual conduct of the lottery will have to be procured. Further, the 8,000 applications now pending do not for the most part contain the necessary information to assess the preference factors. This information is not required by the present application form nor by the old 346 translator application used by most of the early LPTV applicants. It is expected that once a lottery group has been technically defined, those participants will be given a set period of time within which to inform the Commission of preference factors. 2/ In addition, delay may be inherent in the lottery process itself. For example, in the case of "daisy chains" -- numerous mutually exclusive applications linked together-- a series of lotteries may be necessary. Also if the rules ultimately adopted require the filing and disposition of petitions to deny against the winner in one lottery before conducting successive lotteries involving the remaining applicants, additional delays may be encountered.
- * A revised LPTV and translator application form is now being prepared. It will be submitted for Commission approval as an attachment to the LPTV Reconsideration Item that will be considered on the same agenda as the proposed lottery item. 3/ The Office of Managing Director has agreed to lend its resources toward making this new form machine readable. Thus, when this form is finally in use, the entire process could be streamlined.
- * The foregoing represents the current status of the staff's efforts to implement LPTV. As we actually begin using the DEC computer for technical processing and implement the lottery procedures adopted by the Commission, other problems may become evident. Needless to say, we are now doing, and will continue to do everything possible to get the LPTV service off the ground.

2/ This may of course delay the initiation of the first lotteries. However, staff resources are not available to go back to 8,000 applicants for the preference information immediately following Commission adoption of applicable rules in February. Additionally, many of these 8,000 applicants may be found technically unacceptable for filing after analysis by the computer. Thus, it may not be necessary to obtain preference information from all currently pending applicants.

3/ This form will also require OMB approval.

Responses to Questions of House
Appropriations Committee
March 2, 1983

/ Question: Concerns have been expressed over the past few years about the backlog of applications for television translators and low power television. This has had a particular impact on rural areas. What steps has the Commission taken to correct this problem and what will you be doing in the future?

Answer: The corrective measures taken by the Commission to expedite implementation of the low power television service are set forth in detail below.

* Computer for Technical Processing:

- DEC Computer and associated hardware purchased specifically for LPTV have been received by Commission.
- January, 1983: Installation of DEC computer and hardware accomplished; development of programs necessary to inaugurate technical computer programming underway; debugging of computer runs on rented computer space commenced and now continuing.
- June 1, 1983: Completion of all projects that will permit the DEC computer to be operational.

* However, a substantial and serious problem is presented by the incomplete FCC data base pertaining to the approximately 5,000 existing translator licensees. Detailed technical information is required regarding these licensees in order to ascertain their protected contours and thus where low power television stations may be placed. A further data base related problem centers around the 4,000 pending LPTV applications that have specified directional antennas. For these applicants we need a polar diagram of the proposed radiation patterns of the directional transmitting antenna. Only with this information can we make the most efficient use of the spectrum. In addition, a review of numerous pending applications for full-service stations and that of full-service licensees and permittees is required, in order to determine their respective antenna patterns. This information is necessary in order to compute protected contours for these facilities.

* Special task forces have been allocated to the above data base projects. We emphasize that these projects are absolutely essential to computer processing. A time delay is inherent in these projects because they involve securing information from licensees, permittees and applicants and then processing that information.

- * The task force has sent letters to 3,400 licensees and permittees requesting assorted technical information, including radiation patterns and related antenna information. This mailing resulted in minimal response. Thus, a second mailing to approximately 2,200 unresponsive licensees and permittees was completed. Failure to submit the required information may result in a modification of the licensee's or permittee's protected contour, for lacking the necessary information a specified protected contour will be assumed. Further, approximately 200 letters have been sent to pending applicants requesting the submission of a polar diagram of the proposed radiation pattern of their directional transmitting antennas.

- * Lottery:

- January, 1983: Preparation of lottery computer program; detailed analysis of the necessary computer software/hardware underway.

- March, 1983: Following proposed adoption of lottery procedures, equipment necessary for the conduct of lottery will be procured.

- * Further, the 8,000 applications now pending do not for the most part contain the necessary information to assess the minority and diversity preference factors. This information is not required by the present application form nor by the old translator application form used by most of the early LPTV applicants. It is expected that once a lottery group has been technically defined, those participants will be given a set period of time within which to inform the Commission of preference factors.

- * After the DEC computer is operational, those applicants that are not mutually exclusive will be identified. If they are found to be in compliance with the Commission's technical and legal requirements, they will be granted. Based upon our experience thus far, however, we expect that the number of "singleton" applicants will be limited. All mutually exclusive applicants will be subject to the lottery procedure.

- * LPTV/Translator Application Form:

- January, 1983: Preparation of revised LPTV and translator application form to ascertain information relating to lottery preference factors.

- March, 1983: Revised forms submitted to Commission for approval or other action.

- * In summary, the Commission is on target for technical computer processing by June 1, 1983. At that time we will be able to identify and return those pending applications interfering with existing translators and with full service facilities. Thereafter, groups of mutually exclusive applications will be identified and the appropriate lottery procedures implemented. This effort will continue through FY 1983 and thereafter.

9. Question: At what rate will low power and translator television applications be processed by May of 1983?

Answer: Applications will be processed manually until June, as the technical data bases may not be completed until the end of May, foreclosing computer processing. Thus, application processing will remain limited to "worse case values and assumptions" which is less productive in terms of LPTV grants and more time consuming in the utilization of staff resources. The average processing time to complete those cases which fit "worst case values" is one week per application. Also limiting productivity is the fact that the applications processed during this time will include those Tier I applications (most rural) that were cut off under the old judgmental standards. It is estimated that the majority of these applications will not be grantable due to mutual exclusivity or interference potential.

We anticipate that the Commission will adopt final lottery regulations early in March 1983. After the regulations are adopted, the Commission will have to solicit additional information regarding preferences claimed from all pending applicants. This will require amendment of the 346 form, which must be approved by the Office of Management and Budget. Additionally, we will have to select a means by which to conduct the actual lotteries and possibly procure related equipment. Because of the uncertain time involved in obtaining responses from applicants, we cannot accurately predict when we will have the preference information input into our data base of applications, ready to be used in conducting the actual lotteries. The LPTV computer should begin technical processing in June, 1983, and thereafter, the applications that have been grouped as mutually exclusive will be ready for the lottery procedure. We believe we will be able to coordinate implementation of the random selection mechanism to be available when the groups of applications are ready. Absent the issuance of a stay of proceedings by the Commission or court of appeals, the random selection procedure should be in operation before the end of 1983. Once in place, the number of lottery drawings will depend in part, on computer capacity. Also the "winner" will be subjected to legal challenges directed to its basic qualifications by the other applicant participants. The applicable procedures will be set forth in the Commission's lottery regulations. Initially, this process will adversely impact the actual number of LPTV grants per month. However, as the computer program and lottery process becomes better established, the initial "lag" in the numbers will no longer be evident.

Implementation of the Communications Amendments Act of 1982, P.L. 97-259.

On September 13, 1982 the Communications Amendments Act of 1982 (Public Law No. 97-259) became law. In order to implement the provisions of this statute, the Commission is obligated to adopt new rules, amend existing rules, and/or issue appropriate policy guidelines. The implementation process began in the latter part of September 1982 with the establishment of a Task Force comprised of Bureau/Office Chiefs whose functional responsibilities were affected by this Act. Substantial progress has already been made in several areas and, at a minimum, initial action has been taken in all areas that are not self-executing. Below is a synopsis of the current status of each section of the statute.

Section 101 Title of Act.

Section 102 would allow Commissioners and employees to own interests in those entities which do not have a "significant interest" in communications, manufacturing or sales activities subject to Commission regulation. This section sets forth four factors to aid the Commission in determining what constitutes a "significant interest". This section would relax the excessively strict provisions under current law whereby Commissioners and employees generally are prohibited from owning interests in entities which have only a passive involvement in Commission-regulated activities. (Section 4 (b)).

Status: Completion of implementation Order is scheduled for March 1983.

Section 103 Aside from minor amendments covering the appointment, salary, and staff of Commissioners, this section would allow the Commission to accept direct reimbursement from private entities, under certain circumstances, for travel expenses incurred by Commissioners and employees attending privately-sponsored functions. The aggregate reimbursements accepted in any fiscal year may not exceed the total travel appropriation. Money saved by reimbursement may be dedicated to pay other non-travel expenses of the Commission. The travel reimbursement provision will operate as a three-year experiment, beginning in fiscal year 1983. (Section 4(c), (d), (f), (g), (k)).

Status: This statutory change has been implemented. Our first quarterly report to Congress on the status of the program was submitted on January 31, 1983.

Section 104 would authorize the Commission to use volunteers to assist in preparing and administering amateur radio license examinations and to assist in monitoring for violations. Certain persons with significant financial conflicts of interest would be prohibited from serving as volunteers. (Section 4(f)).

Status: Draft of policy guidelines for the selection and utilization of amateur radio service volunteers circulating to FOB field offices and monitoring stations for comment. Notice of Proposed Rulemaking (NPRM) implementing Section was adopted in January 1983. Public Notice to be issued by 3/30/83. Volunteer program to be implemented by 9/30/83.

Section 105 would delete out-of-date language regarding Commission organization and would reduce the minimum composition or quorum of the Review Board from three to two employees. (Section 5(b) and (c)).

Status: Agenda Item implementing this Section has been completed and should be scheduled for Commission action in the near future.

Section 106 deletes a sunset provision regarding utility pole attachment rates charges to cable television stations (Section 224(e)).

Status: This statutory change in the Communications Act is self-executing.

Section 107 would clarify the jurisdiction of the Commission by affirming that intrastate (as well as interstate) radio transmissions may be subject to the Commission's regulatory authority. (Section 301).

Status: This statutory change in the Communications Act is self-executing.

Section 108 would authorize the Commission to require, for example, a minimum shielding and filtering capability on "home electronic equipment and systems" in order to protect such equipment from radio frequency interference (RFI). Equipment and systems to be covered by this section would include radio and television sets, burglar alarms, and automatic garage door openers. (Section 302(a), (b), (c)).

Status: The Chief Scientist is currently in a fact finding posture regarding rules required to implement this section and their potential impact. We expect this process to continue well into Calendar Year 1983.

Section 109 would allow the Commission to grant radio operator licenses to otherwise qualified aliens who are legally eligible for employment in the United States. Under current law, many aliens may not obtain commercial radio operator licenses and are therefore barred from certain jobs. (Section 303(1)).

Status: This statutory change has been implemented. Order adopted by the Commission on November 9, 1982.

Section 110 would allow the Commission to suspend the licenses of operators who advise, consult with, or install or repair equipment for other license applicants, where such operators willfully or repeatedly assist applicants in violating the Communications Act or the Commission's rules. Under current law, the Commission cannot suspend these licenses for aiding or abetting such violations. (Section 303(m)).

Status: This statutory change in the Communications Act is essentially self-executing. However, an agenda item and Order proposing to amend, as appropriate, Part 13 of the Rules, has been prepared and will be forwarded to the Commission for action in the near future.

Section 111 would establish recognition for certain aircraft radio licenses issued by foreign nations. This section conforms the Communications Act to recently proposed amendments in the International Telecommunications Union (ITU) rules and to other international agreements. (Section 301(e) and 303).

Status: Expect to prepare and forward to the Commission for action a NPRM during the 3rd quarter of Fiscal Year 1983.

Section 112 would allow the Commission to grant non-broadcast license renewals for terms not to exceed ten years when such a grant would serve the public interest. This section also would eliminate the necessity for separate renewal of auxiliary licenses, such as remote pickups and studio-transmitter links; these auxiliary license terms will run concurrent with the main license term. (Section 307(c)).

Status: NPRMs addressing the implementation of this Section are currently being prepared. The Commission is expected to consider the Items during the second quarter of Fiscal Year 1983.

Section 113 would authorize the Commission to allow the operation of citizens band (CB) and radio control services without individual licenses. (Sections 303(n) and 307(e)).

Status: NPRM adopted by the Commission on 12/2/82. Comments received by January 19, 1983, reply comments due by 2/3/83. A Report and Order is expected to be prepared during the third quarter of Fiscal Year 1983.

Section 114 would lengthen the maximum period during which a station may operate under special temporary authority from 90 to 180 days, thus reducing the necessity of making repetitive requests for such authority. (Section 309(f)).

Status: Modification of FCC rule 81.41 (Private Radio Service) was included in an NPRM approved by the Commission on December 2, 1982. FCC rule 94.43 (Private Radio Service) was modified by an editorial Order signed on December 28, 1982. Implementation efforts with respect to our Common Carrier and Mass Media Services are currently underway. The Commission is expected to consider Items now being prepared during the second quarter of Fiscal Year 1983.

Section 115 would authorize a lottery mechanism which the Commission could elect to use for awarding licenses or authorizations in any of the services over which it has such jurisdiction. Simply stated, the lottery provisions would operate in the following manner: (a) properly filled-out applications will be eligible for the lottery, (b) with respect to licenses for "media of mass communications" as that term is defined in this section, applicants having few or no other interests in "media of mass communications" and applicants controlled by minority groups will be accorded weighted preferences, (c) after winner is selected, a paper and/or oral hearing may be held if the Commission specifies substantial and material questions of fact concerning the winning applicant, and (d) license is granted if applicant prevails, or new lottery is held if applicant does not prevail. (Section 309(i)).

Status: Implementation is by notice and comment rulemaking. A NPRM was adopted by the Commission on September 23, 1982. Final Report

and Order anticipated to be completed in March 1983.

Section 116 would establish standards for the Commission to follow in determining whether to approve a withdrawal agreement in a construction permit (CP) proceeding involving new-licenses. This section would create standards similar to those which Congress enacted for license renewal proceedings in the 1981 Omnibus Budget Reconciliation Act. The purpose is also the same -- to discourage the filing of frivolous applications. (Section 311(c) and (d)).

Status: Internal discussions regarding implementation of this Section currently in process. Implementation will be via rulemaking or memorandum and order. Interim policy, preserving status quo, issued Nov. 17, 1982.

Section 117 would incorporate into the Communications Act definitions of "willful" and "repeated" consistent with the prevailing judicial view of these terms. (Section 312).

Status: This statutory change in the Communications Act is self-executing.

Section 118 would delete obsolete construction permit grandfathering language. This language applies to entities grandfathered more than 50 years ago. (Section 319(a)).

Status: This statutory change in the Communications Act is self-executing.

Section 119 provides that a construction permit (CP) shall not be required for government stations, amateur stations, and mobile stations, and further provides that the Commission may waive the CP requirement for public coast stations, privately-owned fixed microwave stations, or stations licensed to common carriers. (Section 319(d)).

Status: NPRMs addressing the implementation of the Section are currently being prepared. The Commission is expected to consider these items during the second quarter of Fiscal Year 1983.

Section 120 would allow the Commission, in coordinating the assignment of certain private land mobile and fixed service frequencies, to accept assistance from private coordinating committees, thus codifying the Commission's current practices. Also, this section would create a detailed and specific definition of private land mobile service (PLMS), in order to create a statutory distinction between PLMS and radio common carriers. (Section 331).

Status: Clarification of the role of coordinators was addressed in a Notice of Inquiry (FCC Docket 82-226). An NPRM is tentatively scheduled to be prepared during the third quarter of Fiscal Year 1983.

Interconnection is the subject of FCC Docket 20846, for which a Report and Order (R&O) was approved on March 18, 1982. A Petition for Reconsideration has been received and a Memorandum

Opinion and Order (MO&O) is scheduled to be issued during the second quarter of Fiscal Year 1983.

Multiple licensing was discussed in FCC Docket 18921. A Tentative Decision and Further Notice of Proposed Rulemaking was approved March 18, 1982. Subsequently, the FCC received Petitions for Reconsideration of its action in Docket 18921. A MO&O is being prepared and should be completed during the second quarter of Fiscal Year 1983.

Section 121 would shift the burden of notifying interested parties, in appellate proceedings, from the Commission to the appellant. This section also would remove the requirement that the Commission present the record to the court within 30 days after an appeal is filed, leaving the filing of the record to be governed by the Federal Rules of Appellate Procedure. (Section 402(d)).

Status: These statutory changes in the Communications Act are self-executing. Internal memorandum, dated September 24, 1982, outlining procedural changes has been issued.

Section 122 would delete language covering rehearing orders, since that language is superfluous. This section also would make clear that all pleading periods begin to run from the time on which the Commission gives public notice of its final actions. (Section 405).

Status: This statutory change in the Communications Act is self-executing.

Section 123 would reconcile a possible conflict between the statute, the Commission's rules and accepted practice, regarding the Commission's authority to specify the effective date of its decisions. Simply stated, this amendment restates the rule that Commission decisions become effective 30 days after public notice is given, but allows the Commission the discretion to designate a different effective date. (Section 408).

Status: This statutory change in the Communications Act is self-executing.

Section 124 would make clear that, for purposes of the forfeiture provisions of the Communications Act, cable-television operators are to be treated the same as licensees or holders of Commission authorizations. Thus, the Commission would be able to impose necessary forfeitures on cable operators without having to take intermediate procedural steps. (Section 503(b)(5)).

Status: No change in Commission practice or procedure was required to implement the amendment.

Section 125 would direct courts of competent jurisdiction to seize and retain illegal radio equipment or unlicensed equipment used in violation of the Communications Act, and thus prevent its continued operation in cases where such violations lead to convictions. (Section 510).

Status: This statutory change in the Communications Act is essentially

self-executing. Internal memorandum, dated November 1, 1982, regarding this Section has been issued.

Section 126 would exempt amateur radio volunteers (see Section 4 of H.R. 5008) from the interception prohibitions of Section 605 of the Communications Act. (Section 605).

Status: NPRM implementing Section was adopted on January 20, 1983.

Section 127 would make technical amendments to modernize out-of-date language. (Sections 304, 402(a) and 405).

Status: This statutory change in the Communications Act is self-executing.

Section 128 would amend Title 18, U.S. Code, and expressly recognize that attacks on Commission employees during the course of their work are criminal offenses. (Section 1114 of Title 18, U.S. Code).

Status: This section of the new legislation is essentially self-executing. Internal memorandum, dated November 1, 1982, regarding this Section has been issued.

The Commission had no involvement with Title II of H.R. 3239.

Implementation of the Record Carrier Competition Act of 1981,
P.L. 97-130

In 1943 Congress enacted Section 222 as a statutory exemption to the antitrust laws to permit Western Union to acquire its major domestic telegraph competitor. In addition to sanctioning the establishment of a monopoly in the provision of domestic record services, Section 222 required Western Union to divest its international record operations. This divestiture eventually resulted in the creation of Western Union International, Inc. (WUI), an entity unrelated to Western Union. WUI was recently acquired by MCI. Section 222 was interpreted by the courts (particularly by the U.S. Court of Appeals for the Second Circuit) to bar any offering of international record service by Western Union.

On December 29, 1981, the Record Carrier Competition Act of 1981 was enacted. This legislation totally amended Section 222. It lifted the ban on the provision of international record service by Western Union and also required all record carriers (primarily Western Union and the IRCs) to interconnect their facilities.

Under the new Section 222 the carriers were given 90 days to reach an interconnection agreement. If no agreement could be negotiated, then the Commission was directed to issue an interconnection order by the 90th day. The parties failed to establish interconnection arrangements within the legislated time period and the Commission released its Interim Order on the 90th day, prescribing interconnection arrangements. 89 FCC 2d 928 (released April 8, 1982). Pursuant to the Interim Order the carriers filed tariffs. These tariffs were rejected by the Commission since they were inconsistent with and/or contrary to the RCCA and the Interim Order (FCC 82-264, released June 11, 1982). Specifically, the tariffs were deficient in the handling of transiting, pro rata, unbundling, the 15% discount and the 1.3 timing factor. Moreover, the tariffs did not clearly and concisely disclose charges in a manner to facilitate decisions by users on which carrier to choose for domestic and international segments. The Commission therefore prescribed specific tariff language which the record carriers were required to file.

Subsequently, the carriers sought Commission reconsideration and court review. Additionally, the D. C. Court of Appeals granted a stay pending appeal of the transiting and pro rata requirements of the Interim Order. The transiting provision permits a carrier to provide service to an overseas point even though it has not acquired an operating agreement to serve that particular point. The carrier without the operating agreement includes that overseas point in its tariff, collects the charge from the customer, employs the facilities of a carrier with an operating agreement, and shares the revenues with that carrier in accordance with a Commission prescribed formula. Pro rata sharing entitles a carrier which generates and hands off international outbound traffic under the transiting arrangement to a proportional share of inbound traffic for delivery or the equivalent revenue amount. At the present time the carriers have tariffs on file which have been accepted. Reconsideration petitions on the Interim and Tariff Orders are pending and will be decided very soon. Appeals have been filed and the partial stay has been granted by the reviewing court.

The above summarizes the status of the interconnection arrangements between and among Western Union, the IRCs and various other record carriers. We also note that on August 5, 1982, at the end of the 210 day statutory moratorium period, the Commission authorized Western Union to re-enter the international record market. (FCC 82-378, released August 12, 1982).

Implementation of New Jersey VHF Amendment in Tax Equity and Fiscal Responsibility Act of 1982, P.L. 97-248

H.R. 4961, the "Tax Equity and Fiscal Responsibility Act of 1982," contained an amendment offered by Sen. Bill Bradley (D-N.J.) which required the FCC to permit the transfer of a VHF commercial television license to a state where no VHF channel currently exists and to renew that station's license for up to five years.

RKO General, Inc., taking advantage of this new law, applied to the FCC to move its New York City television license for WOR-TV on Channel 9 to New Jersey, thus giving the state its first commercial VHF television station. The Commission has granted this request.

In approving the reallocation of Channel 9 to New Jersey and in granting a five year license term to RKO, the previous decision of the Commission denying renewal of WOR-TV in New York was mooted. In addition the competing application of Multi State Communications to operate on channel 9 in New York was dismissed. Pursuant to the legislation and RKO's submissions, Channel 9 must provide service to all of the northern New Jersey Grade B coverage area on a primary basis. No change in coverage area is contemplated since RKO intends to retain its present transmitter location atop the World Trade Center.

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Senator GOLDWATER. Thank you very much, Mr. Fowler.

As you might imagine, we have some questions, and we look forward to discussing them.

Mr. Fowler, there have been reports that later this year the Commission may issue a notice of inquiry on the application of the fairness doctrine and political broadcasting rules to cable origination channels. What issues need to be addressed in this inquiry, and how do they affect this committee's efforts to deregulate cable?

Mr. FOWLER. I am not totally familiar with that docket except to say that I do know we plan to bring that matter before the Commission fairly soon, Mr. Chairman. The fundamental question is whether or not the fairness doctrine should apply to cable. I think there is a substantial question as to whether it does or not. In that regard, I take note that I support very strongly the bill you have introduced on cable, particularly because it does a great deal to get the Commission and indeed the government out of program content areas.

I cannot say how the Commission will vote on that item. I cannot predict that. But I personally have very strong reservations about the application of the equal fairness doctrine to cable.

Senator GOLDWATER. What is your attitude and the attitude of the Commission toward the fairness doctrine as it now is working?

Mr. FOWLER. Senator, we have recommended to the Congress through the Commission—I think it was in the fall of 1981 that Congress consider the repeal of the fairness doctrine on the ground that we believe there is no reason to treat the printed media and the electronic media any differently. It cannot be scarcity, because in most markets there are far more television and radio stations, for example, than there are newspapers.

Really it comes down to a debate between those people who want to insure that we have a fair flow of information in society and those who want to assure that we have a free flow. A free flow may not always be fair, but the problem when you say you want to have a fair flow is that the Government then has to step in and act as a referee and determine what is fair and what is good. Our reading of the first amendment is that the Founding Fathers told the Congress that the Congress should make no law abridging freedom of speech or of the press; and we read that no to mean no.

We are hopeful under your leadership and Chairman Packwood's that we can make progress in that area in eliminating Government interference. Instead of reposing the authority to censor in four out of seven bureaucrats, soon to be three out of five bureaucrats, we would rather repose that responsibility in our Nation's editors, whether they are in the television newsroom or in the print newsroom. But it is more consistent with a democracy, and that is our basic view on fairness.

Senator GOLDWATER. I am totally in accord with you on that. As a politician, I do not think it has done any good; it has not created any equality or any fairness. In fact, it presents a real difficult problem to that portion of the media that we call television and radio.

As you indicate, the newspapers can ignore it in most things. They usually do. But it applies to television and radio, and I hope we can get rid of it.

Mr. Chairman, I understand that the FCC has decided to hear oral presentations in connection with your rulemaking concerning the financial interest and syndication rules on March 14, 1983. Since reply comments in that proceeding are not due until April 26, is this not a rather unusual procedure?

Mr. FOWLER. No, Mr. Chairman. We do not think so. We have done this before. In the past there have been several proceedings where the Commission held an oral argument before the reply comments were in.

My thinking here, and indeed I think the thinking of the Commissioners, was that oftentimes when you have a lot of written material that is found—indeed, we have 125 parties who filed comments in January; it is a stack—I do not know how high it is from all over the country. Then we are going to have an April reply comment, so every fellow has a chance to talk about what everybody else filed in the initial round.

We thought in addition to that it might be good between those two to have an oral argument where we can let people talk about the issues, because in an oral argument often issues will crystallize and become a lot clearer than they will when you have a lot of paper, and you are reading paper or different documents.

By having the parties together sitting at the same table and being able to say to each "what do you think about what he said, do you agree with what he said, and if not, why not"; so an oral presentation, which is not something that we need do but we can do it at our discretion—it is not required—is simply another way of providing parties with an opportunity to talk about the issues.

There is a lot of sensitivity on both sides. It is very controversial. I am afraid that whatever we do, we are going to be damned by one side or the other, but we are attempting to be fair. I am confident that when we get done with examining all the initial comments, having a full day—it will probably run from 8:30 in the morning until 6 at night—a full day of oral testimony and debate, and the reply comments, we will have a very good grasp of the issues, and we will be able to make a decision that serves the public interest.

Senator GOLDWATER. I do not disagree with you on oral arguments, but the FCC rules require that when you hold an oral proceeding, you give notice in the Federal Register by mail to all parties. Did you give that notice in February when you decided to schedule this oral presentation?

Mr. FOWLER. No, sir. We did not then, but we have mailed that notice now to all the parties to the proceeding. We have delivered to the Federal Register a document to be published in the Federal Register, so we will have literally complied with that rule.

Beyond that, I think it is fair to say that the purpose of the rule has been amply served. It is very clear that all parties who are interested are involved in this proceeding. It has received a great deal of comment in the press. It has been the center of numerous articles. It has been the subject of pleadings filed with our agency as a result of an NPRM which we issued last year. It has received such great public attention that it is almost inconceivable to me that any party that has a good interest would not know of this proceeding and would not participate.

So, one, to answer your question, Senator, we will and indeed are complying with that rule; and two, I am confident that the parties know of the proceeding, including the oral argument, and those who wish to participate will be able to do so consistent with the time limitations we have set; that is, one day's oral argument.

Senator GOLDWATER. I can assure you that they know about it. I think you ought to stick to the rules.

Mr. FOWLER. I think we will, Senator. That is a good comment. Although I have to say, every time you turn around to go to the restroom, you are violating an FCC rule probably somewhere.

Senator GOLDWATER. You have to eliminate the restroom.

Now, Mr. Chairman, I am personally interested in amateur radio, and I have a couple of questions on that subject. What efforts has the FCC made to implement the RFI provision of H.R. 3239 which were enacted into law last year?

Mr. FOWLER. Senator, the first thing I want to say about RFI is I think the fact that that legislation passed, and it has permissive language, gives us the authority to use our Commission powers to require certain things to be included in television sets to prevent what we call TVI. That step alone has, I think, focused the attention of industry on the problem more than it would have otherwise.

The mere fact of the passage has made the industry much more sensitive to the problem. We have not sat back. And first of all, we have had numerous inter-Bureau meetings. We have met several times with the industry to discuss standards for preventing interference. I think that legislation giving us the power, if we choose to exercise it, has helped us in making sure that the parties have been responsive to our concerns.

As you know, there is a problem with harmonics which is a result, we think, of faulty TV filtering and shielding. It is difficult, however, for the Government to try to set standards for a multimillion dollar TV assembly line. So what we want to do, if we can, is encourage voluntary standards which we are satisfied will solve whatever problems there might be.

In addition to those meetings which we have had which have been ongoing and somewhat intense, I think we have made a lot of progress. They have had the Field Operations Bureau conducting a sample of about 2,000 television sets out in the field to see which ones have problems, how old is the set, what are the inside mechanisms in the set, does it have filtering, does it not.

The industry generally has found that about 25 percent of the sets overall have had some kind of a TVI problem, and they have in the past elected to provide filters to owners who have problems only because they felt that those problems were very infrequent. The best we can tell right now is that TVI has pretty much leveled off, and indeed, all of the new sets that are made now have much better filtering techniques and better capabilities to keep out that interference.

So the problem is essentially taking care of itself now, and indeed, it is being solved much faster as more and more of these new sets with state-of-the-art interference capabilities inside the set come on line. But we will not hesitate to use and invoke that authority if we find that TVI starts to increase and goes the other way.

Senator GOLDWATER. How are your complaints measuring up to last year?

Mr. FOWLER. I wonder if I should ask Dick Smith this.

This is Dick Smith, Mr. Chairman, of our Field Operations Bureau.

Mr. SMITH. The interference complaints of TVI have leveled off in the last couple of years. We are receiving all types of complaints, about 80,000 per year. A couple of years ago that leveled off. In 1981 and 1982 the statistics were like they were a downward trend. I think some of that is due to the decline in CB operation out there, since that was the source of certainly the greatest percentage of the interference complaints. There certainly is a trend, if we look at the statistics over the last several years, of leveling off, and now perhaps a downward trend.

Mr. FOWLER. Mr. Chairman, there is one other thing I want to mention, and that is that we have collected 30 television sets of different makes that are on the market right now. We are testing them at our Laurel, Md., lab to see what their susceptibility is to television interference. We are also doing that, too. I think we can solve that problem. But if we have to, we will use the authority that your legislation provided. If we can do it voluntarily, we would like to.

Senator GOLDWATER. I would like to see it done on a voluntary basis. In fact, I was hoping when we first started discussions in this field with the manufacturers that they themselves would volunteer to take care of any inconsistencies, not just television but hi-fi, any equipment that has emissions or receptions; but they did not do it. We are not talking about a lot of money, as you know. It is relatively cheap to keep out RFI's. I hope you will keep after that.

Have you done anything to establish minimum performance standards for home electronic equipment to reduce susceptibility to interference?

Mr. FOWLER. Let me ask Bob Powers, our Acting Chief Scientist.

Mr. POWERS. Mr. Chairman, the answer to that question I think tracks very closely to the discussion you just had with respect to television receivers themselves. We have not adopted standards for home electronic equipment—neither TV sets nor any other home electronic equipment. This implies we have standards for EML for TV. We have not set any.

We see the first and foremost problem to be the television sets themselves. I think we will learn a great deal as we work with the manufacturers on that particular problem as to how successfully they address the problem on a voluntary basis and then how successfully they can be expected to address the next set of problems, which in our experience seems to be a little bit less pressing than the television sets themselves.

Senator GOLDWATER. I hope you will extend your studies to include other home appliances. A study made by Pan American—I think Pan American was the contractor—on frequency problems out of Fort Huachuca in Arizona quite a few years ago found harmonics coming out of washing machines, out of irons and god knows what. Anything that has an electronic side to it puts out emission.

I had an interesting experience. For example, the other day I had to buy a hearing aid. When I paid for it, my hearing came back.

I was flying into Phoenix the other day, and by golly, this hearing aid picks up air-to-ground communications. I was a little bit ahead of the pilot.

Mr. FOWLER. I understand it has the capability designed into it. It is part of the marketing advantage they have.

Senator GOLDWATER. That is too much.

Now, my second question in this field concerns the Field Operations Bureau. I understand the Bureau is providing less and less service to the public as a result of outmoded or inoperative equipment and a lack of manpower. If this is true, what can you do to remedy the situation or the problem?

Mr. FOWLER. Mr. Chairman, let me just preface this by saying we have to make some judgments as to how we use our resources. Essentially, you get into a tradeoff: Do we want to have a cop on every block or every 20th block? Obviously, the more you have, the more it costs and the safer you are, so to speak. It might not be the most efficient use of resources, and what we want to do is have some reasonable force out there to prevent the kinds of interference levels that you have a concern about and be able to concentrate on those that cause the most problems.

We cannot possibly police every single one. I think we all recognize that. But some of the efforts we are making, for example, with EIA through an industry standard which they established, try to lower the susceptibility of television receivers. And instead, they now claim all of the ones that are being manufactured now, or almost all of them, do meet that standard. These are some of the ways we can solve problems like that properly on the assembly line.

So we have to make some judgments as to what is important. But I think we are overall concentrating on those things that are important and meeting our mandate to make sure we do not have undue interference that critically and unduly impedes our communications systems and eliminate interference in areas where there is a real problem.

But that is a very general statement. I would like to ask Dick Smith, Chief of our Field Operations Bureau, to give you more specifics.

Mr. SMITH. It is true that the resources of the Bureau have been reduced over the last several years. We have closed a number of offices and some monitoring stations. Our staff has been reduced from about 512 to 402 or so today.

However, at the same time, we have reduced some of the things we have done and have plans to further reduce some of those things we think are not the most important. For example, the legislation that was passed last year will permit us to allow the amateurs to administer their own amateur exams, a function that the field operations bureau have been doing currently throughout its offices across the Nation.

We also have an item ready for the Commission to consider that reduces the communications examiner workload in the field if the

Commission so adopts that proposal which we are making later this month to them.

We are doing primarily responsive work. Routine work that we have done in the past years is not possible now, but we are able to respond to those critical needs, those critical interference problems. And I think if the budget that is now pending in the Congress for fiscal year 1984 is adopted, that we will be in such a condition that we will be able to continue to do those things that we feel are the most important functions of the Field Operations Bureau.

Senator GOLDWATER. I am wondering if the Commission has ever thought of the possibility of using the amateur in this general field of monitoring. I know that you had cut down on monitoring. We had that effect felt out in the West. I think you might talk about it. I do not know if they could. I would not say that every amateur could do it. But certainly, an extra class with their qualifications might be able to do some monitoring for you.

Mr. SMITH. We do in fact, under some recently obtained legislation, have the authority to receive information from the amateurs. Through the legislation we have gotten around some legal problems that would have prevented that in the past. We do plan, beginning this summer, I believe the schedule calls for about July, we are implementing receiving some help from the volunteers in the regard of monitoring and self-policy.

The amateur community has, as you well know, been very well self-regulating over the years. I think with the legislation we now have, with the assistance we can receive from them, they can do some of the leg work for us, and we can do the end result, finishing up. I think that will go a long way toward giving us leverage with the resources we have for the service.

Senator GOLDWATER. Thank you very much.

The other day I read that the FCC ruled that to prevent amateurs from using foul language on the air would be a violation of first amendment rights.

Mr. FOWLER. I think you are referring, Mr. Chairman, to a decision by the review board. The item just came out; I have not had a chance to even look at that. This is an independent three-judge panel within the Commission. It will be undoubtedly up before the FCC for review, if indeed it is appealed. I am told that, in fact, was the ruling, but I have not had a chance to look at it yet.

Senator GOLDWATER. I have nothing against swearing, but I do not think it is proper to use four-letter words on the air, whether it is the TV or amateur or what. I do not think the Founding Fathers ever envisioned that as abuse of the first amendment. So I will look forward to receiving your judgment.

Mr. FOWLER. I understand that our private radio bureau has appealed that ruling. They do not like it. They agree with you. So it will definitely be before us.

I remember we had an other interesting case, Senator, that always amused me. It was a citizens band case where someone was accused of using profanity. He identified himself as "Ready Freddy." This gentleman, I forget what his name was, was hauled before an ALJ and put on the witness stand and denied under oath that he was "Ready Freddy." The judge took judicial notice of the

fact that the gentleman was wearing a belt buckle that said "Ready Freddy" and found him guilty.

Senator GOLDWATER. Mr. Chairman, could you please detail the status of any proceeding of the FCC dealing with television deregulation?

Mr. FOWLER. Yes, sir. The main one right now is looking to see whether or not we cannot generally deregulate television along the lines of radio deregulation, Mr. Chairman. We are looking at that right now; toward issuing a notice of proposed rulemaking, which would ask the question: Is it time that the Government get out of the way in certain areas where we have regulated very heavily in the past television?

And in the radio order, we eliminated the requirement that a licensee have so much news, a certain percentage of news, a certain percentage of public affairs, a certain amount of what we call good programs. We eliminated the requirement that they do these full-fledged surveys in their communities of license. We eliminated the requirement that they keep program logs, and we eliminated the commercial ceiling limitations on radio. And that is what we are looking at doing for television.

And we, I think, should put a notice of proposed rulemaking out fairly soon to ask those questions. It will not be the final order. But, like all the other rules, we want to look at those rules as well.

Senator GOLDWATER. Mr. Chairman, when do you expect to conclude the proposed rulemaking of methods to increase nighttime radio service, and will you deal with restrictions on daytime?

Mr. FOWLER. We have several proceedings pending, Mr. Chairman. I know you are referring, in part, to the applications that we permitted to be filed for the clear channel stations. We have another proceeding pending to see if we cannot relax standards to permit more daytimers to go full time. We have another proceeding which would permit daytimers to extend their broadcast day, although not going full-time.

Larry, would you like to give more chapter and verse to the chairman's question?

Mr. HARRIS. Good morning, Mr. Chairman. The first item that Chairman Fowler mentioned on clear channel, we expect to have very shortly, I would say this spring, before the Commission. The item, which would extend the daylight hours of operations—we are talking about what is referred to as the 6 a.m. to 6 p.m.—the bureau fully expects to have the item up before the Commission this summer. It is critical we have it up this summer because if we do not get it up before the winter hits, we will give them no relief.

The third part of the item on the more full extension, we do not have a date yet. We are looking at it, but, Mr. Chairman, I assure you that each of those items is receiving full attention from the bureau. We are very optimistic on the relief we will be able to give to the daytimers. We think they have a serious problem, and we are very understanding, and we believe we can give them significant relief.

Senator GOLDWATER. Good. Mr. Chairman, after 13 years of regulatory delay, applications are now pending for cellular mobile telephone service. How will you expedite decisions for completing applications that have been filed for this service?

Mr. FOWLER. Mr. Chairman, we have made great progress already. We have designated 16 sets of applications for hearings already. We have accepted applications for the top 60 markets. And yesterday we had filed applications for the next 30 markets. I guess it is 61 through 90. I am told now that we have—how many—800 or so that were filed yesterday. We think about 800 for the 61 to 90. It is—

Senator GOLDWATER. Those are 800 separate?

Mr. FOWLER. Yes, sir.

Senator GOLDWATER. Total of 800?

Mr. FOWLER. 800 separate applicants. They may be the same company applying for separate applications, but there are 800 applications for those markets. That obviously has an impact on this agency. We may at some point have to ask for more money. And if we have to evaluate, we do not want to on the one hand waste money, on the other hand we do not want to delay getting services out that are critical to our country's economy. This is in the high-tech area particularly. So if we find that we need more resources, we will not hesitate to ask the Congress. We have provided for a streamlined form of adjudication using paper proceedings rather than having long oral testimony and long hearings. The ALJ's have performed I think admirably. They have limited discovery. They have limited the procedures. They have expedited the procedures. And I am confident with the staffing we have with the ALJ's we will be able to move forward.

I would also say that we encourage settlement, and indeed there have been a number of settlements, No. 1. No. 2, I would say we might want to think of innovative ways to speed up the process, because with 800 having been filed yesterday I have to tell you, Mr. Chairman, that we may have to think how we can streamline this even further. But we will get the service out, and we are moving rapidly.

I am proud that we are doing so after 13 years where essentially nothing was happening.

Senator GOLDWATER. What is the average cost going to be for the person who wants to put a cellular phone in his car?

Mr. FOWLER. I guess it will depend on the competitive marketplace where we will have at least two competitors in each market. My understanding initially—and I guess I would like to ask Gary Epstein to comment further—is that it would be something like \$350 a month.

Is that right?

Mr. EPSTEIN. We are seeing figures now where service would be about \$100 to \$150 per month. The actual purchase price of the equipment is rather expensive. The terminal equipment we are talking about perhaps would go for \$1,500 to \$2,000. We are hoping the price will come way down when mass production hits and when the cellular systems actually begin operating.

Senator GOLDWATER. Do you see much possibility that the price will come down to a more reasonable figure? That is a lot of money.

Mr. FOWLER. I mentioned the \$350 figure, Mr. Chairman.

Am I not correct that that was one of the quotes that we had at the beginning, Gary? It was up in that range?

Mr. EPSTEIN. Yes.

Mr. FOWLER. So we see it coming down even now. It is impossible to predict how much further down it might come. I guess it just depends. It is a function of the competitive marketplace, including the cost of the equipment. Perhaps as more and more services get out there and there are economies of scale in manufacturing the equipment, some of those cost savings will be passed along by the operators themselves. But it is coming down then I gather from what Gary says, seeing the figures coming down.

Senator GOLDWATER. Senator, we are glad to have you with us. If you have some questions, go ahead.

Mr. PRESSLER. Thank you very much. I have to preside over the Senate at 10, which is what freshman Senators have to do. So I will have to depart.

I have three questions, if I could ask. First of all, I want to thank the witnesses. I want to thank the chairman for calling these hearings. I am a cosponsor of S. 607, the FCC reauthorization bill, and I am pleased that the subcommittee is exercising its responsibility to hold oversight hearings on Commission activities.

The Commission has moved quickly in some areas, and I commend Chairman Fowler for his leadership, particularly in the area of broadcast deregulation.

I continue to be concerned, however, about one service which has faced chronic delays: low-power television. And this is a very big dimension. But rural States, like my State of South Dakota, stand to benefit from a service like low-power.

I understand the Commission has taken some steps to make the process more efficient. I certainly hope this is the case. And I would once again urge the Chairman to do everything in his power to expedite this matter.

In my view, the single most important issue facing the Commission and this subcommittee is the obligation to continue the service of universal telephones for all Americans. That is the subject of some of the questions I have.

I know that the Commission recently made a decision on Docket No. 78-72, which deals with access charges paid by long-distance carriers to local operating companies. The Joint Board will meet next week to determine the exact format for the administration of the proposed universal fund, which will take the place of current subsidies in the separations rate structure.

These decisions, made here in Washington with little attention paid outside the telephone industry, will have a profound effect on the daily lives of all Americans. Unfortunately, most Americans will not realize these changes until the phone rates start to increase.

As the elected representatives of the American people, the members of this subcommittee have a serious responsibility to monitor all decisions on this matter and guarantee that in the haste to deregulate the telephone industry we do not shortchange or neglect the needs of the American consumer, particularly the rural phone user.

I would remind the Commission that talking about a national average phone rate increase of \$2 per month per year on residential telephone rates may mean very little in my home State. Tele-

phone service is very expensive because of the long distances and sparse populations. Some estimates for South Dakota telephone co-operatives predict an increase as high as \$35 per month. This is obviously unacceptable.

I would ask the Commission to be extremely sensitive to the needs of rural America rather than some mythical community called "the national average."

And with that in mind, I would like to ask, the Commission recently finished action on Docket No. 78-72 concerning access charges for interexchange carriers and individual telephone users. The decision sets up the universal service fund to assist phone companies servicing high-cost areas, particularly in rural States. In its decision the Commission stated that it would monitor the effects of this access charge mechanism to determine the amount of phone service lost as a result of increased costs.

How specifically does the Commission plan to monitor this situation? And at what point would the amount of lost phone service be considered unacceptable by the Commission?

Mr. FOWLER. I think that the figure I have seen for universal service is, what, 95 percent or so, of the phones? It depends. We would regard that as essentially fulfilling the mandated universal service.

And I wanted to say before we answer the specific question there—and I would like to ask Mr. Epstein to do so—Senator, we share your concern, and indeed have shared your concern, about the impact of that decision on the high cost in rural areas. And to that end, we were careful to craft what we call a universal service fund.

Essentially, this fund is a pooling of money from all over the country so that all users of long-distance telephone service will chip in roughly a penny a minute—that is what it will cost everybody—to subsidize areas such as yours in South Dakota, Alaska is another one and there are others I believe even in, for example, Arizona and New Mexico, there are very high-cost areas and we want to bring down the cost and the impact of that decision on the people in those rural and high-cost areas.

So we hope that through the use of this universal service fund we will be able to satisfy and guard against those concerns that you have. Now, telephone rates will be going up somewhat, but the long-distance rates will be coming down. So there is a benefit there. Somebody making as little as seven average long-distance telephone calls a month will be better off as a result of this decision.

The challenge is for those areas—and it comes out fortuitously that the high-cost rural can be easily handled. And they are not that many in number relative to the total number of telephone subscribers, so that everyone else has to pay very little—I said a penny a minute—to keep those costs down in those areas such as yours where you have that concern.

Gary, would you like to answer the specifics there?

Mr. EPSTEIN. Senator, the Commission was so concerned about this matter that it charged the staff to come back with a specific plan addressing the questions you raised within 90 days of the adoption of the order.

The staff is looking at such things as what data gathering we can actually perform, what models can be developed and what the actual thresholds or cutoff points will be where the Commission will begin to get concerned and revisit the decisions it has already made.

The Commission did a second thing too. Some of the major impact of its plan will come between the fifth and the seventh year of the transition period. Therefore, the Commission has explicitly stated in the access charge proceeding that it wants to take a second look, before the end of that 5-year period, and once again address the specific concerns that you were raising.

Senator PRESSLER. Well, as you get organized on this, I think it is good to keep reporting back.

I guess the second question I have has been answered in part. But how exactly does the Commission envisage the administration and function of this universal service fund? And what assurances can the Commission give to this subcommittee that such a fund will actually work to prevent local rates in high-cost and rural from really unreasonable increases?

Mr. EPSTEIN. Well, the Commission did a couple of things, Senator. It wanted to set forth the structure of the fund. It asked an entry called a Joint Board, which is made up of four State commissioners and three Federal Commissioners, to make the initial recommendation. And we did that because we have State commissioner representation on the Joint Board. These people are closest to the individual local phone subscribers. We feel that their input is very important.

In an important meeting next week in Washington the Joint Board will make its recommendation to the Commission on the amount and the structure of the Universal Service Fund.

Now, as for the actual implementation of the Fund, in the access charge order, the Commission mandated the creation of an exchange carrier association, formed by the exchange telephone companies of this country, pursuant to supervision and guidelines set up by the Commission.

The Commission has the obligation to monitor the structure and operation of the exchange carrier organization, and this will be the mechanism by which the subsidy is distributed to high-cost and rural areas throughout the country.

Senator PRESSLER. As I understand, one of the reasons for the flat-rate customer charge proposed in the Commission's recent access charge rule was the expectation of significant savings in long-distance rates which would be passed along to consumers. However, I understand that some industry representatives have stated that they see little cost savings to justify significant long-distance rate decreases.

What are your views on this issue? And specifically, what will the Commission do about uniform reduction and long-distance rates on both urban and rural service areas?

Mr. EPSTEIN. The Commission would be quite concerned if as a result of its decision we did not see a significant decrease in long-distance interexchange rates. We have been having informal discussions with the carriers. We have already begun to have those

discussions. I believe it is clearly the staff's view, and I believe it will be the commission's view also, that there will be decreases.

Senator PRESSLER. So you expect that the long-distance rates will actually go down from what they are now in real dollars?

Mr. EPSTEIN. Yes, sir.

Senator PRESSLER. What would you expect would happen to a phone bill in a more rural area—of course, that is a matter of definition, a nonstatistical metropolitan area, an area such as my State of South Dakota—what would you expect will happen to long-distance rates there?

Mr. EPSTEIN. To long-distance rates?

Senator PRESSLER. Yes.

Mr. EPSTEIN. Again, we would expect that at least in the immediate near-term future those long-distance rates would decrease. Now, there may well be other pressures. There is a fundamental policy decision which will have to be made by the Commission, the Congress, and the courts over the next 5 to 10 years about whether or not there will be deaveraging of long-distance rates; that is whether or not for dense more populated metropolitan areas the long-distance rates will be lower than for more rural areas.

The Commission's policy at this time is uniform national long-distance rates, and there has been no policy decision authorizing anything in the nature of deaveraging. There is no proposal before us to do any such thing. I think that would be a very fundamental policy change on the Commission's part which everyone would want to look at quite carefully before it could possibly be implemented.

Senator PRESSLER. Thank you, Mr. Chairman.

Senator GOLDWATER. Thank you very much. I think those questions are very good. I can tell my people at home as long as we have you around here, they do not have to worry about smoke signals again.

Mr. Chairman, NTIA was directed by Congress to study utilization of that portion of the spectrum presently allocated to government agencies. As new services develop, there is increasing pressure to use the spectrum more efficiently. Do you agree with that?

Mr. FOWLER. Yes, sir.

Senator GOLDWATER. What is the FCC doing to review the overall picture in this area to ensure a more efficient use?

Mr. FOWLER. Well, there are several things we are doing. Number one, we are looking to see what can we do to encourage technologies that are more efficient; that is, that use less spectrum to do the same thing. A subpart of that, of course, is if you have identified such a technology, how do you encourage those who use the spectrum to adopt a new, more efficient technology?

One of the ideas we are kicking around is the idea that, for example, where a land mobile operator has a certain amount of spectrum that he uses what if he were to go to a more efficient technology, for example, one-third of the channel width he is presently using, using conventional FM broadcasting technologies, and went to what they call single-side compandoring, for example, which is one technology which uses one-third as much, might he be able to then sublease out the other two-thirds.

It would encourage him to use less, since he has a motive to do so because he would have two other, or one other, profit center in the sublease to other people. That is one thing we are looking at.

The problem is you have to have incentives; otherwise, there is no reason why someone who has invested in, for example, conventional FM equipment would want to invest in new technology equipment such as single-side band compandoring. So I think we could look at building in incentives so that the current spectrum is used more efficiently.

I am not sure that it is. Clearly, there are technologies that if it were used on a more widespread basis would enable more people to use the same spectrum for different or the same purpose.

The second thing is we would like to encourage NTIA and indeed the Federal Government to reexamine how much spectrum the Government needs. Aside from defense considerations, which I think are a very special area, where clearly there are special needs, the Government legitimately needs that spectrum, I would say we would like to see whether or not some of that spectrum that is non-defense-related or does not have some other kind of high National Government purpose, could not be turned over to the private sector. Indeed the Government uses the existing private sector network extensively to transmit data and information and employing less Government systems could then mean a more efficient use of the spectrum.

So those are two things that come to mind right now. The third point concerns how do we initially allocate spectrum among competing requests for that spectrum to assure that they are allocated yet to the highest and best use? How do we know that opening up spectrum for a new private communications service for individuals using radios in cars is a better use of that service than, for example, for telephone service in airplanes?

We are not terribly good at making those kinds of decisions. We do not have current market information many times to make those decisions. We do not know what the demand will be one versus the other. And I think more and more we are looking at possibly using allocative tools such as a lottery or an auction of some kind. I think it is something we need to look at. There is nothing we have done yet that has moved us to any specific proceeding, but I think we need to be looking at that, as spectrum becomes more and more precious. How do we allocate it on a rational basis to assure it is used to the highest and best use?

We are also exploring multiple use of the same frequency if there is no interference problem particularly in the microwave area where you can point signals at different angles and use the same frequency at the same time.

So those are some of the things that we are doing. It is an area that is requiring more and more attention of the Commission, in particular our office of science and technology. And I assure you that we are working on it very actively.

Senator GOLDWATER. Naturally, I lean toward side path. But that would be a major decision affecting the market. It might be wise, I think, for you to explore what the manufacturing community, how they would accept mandatory side band. We have had trouble with that, as you know. It took us years to get the Navy to use side

band. In fact, even my amateur standing, it took a long time for AM to die out. Now it is all side band. But it is very efficient in use in spectrum.

In fact, the Russians have gone a step further. They have switched to side band. We have not quite gotten there. Keep at it.

Mr. FOWLER. I listen to the amateurs on my receiver, and I am not sure I am using my BFO. Is that what they call it? They sound a lot like Donald Duck a lot of the time when I use that oscillator.

Senator GOLDWATER. You get used to it. In fact, to listening to Senate speeches.

It takes a while, but you get there.

Mr. Chairman, S. 898 deals with provisions that could have allowed deregulation of long-distance markets where there was effective competition. And you gave a speech in New Orleans in January indicating that high-density long-distance telephone markets might need to be deregulated. I understand that at least one other Commissioner has expressed public support for that concept.

Do you intend to pursue deregulation of submarkets? And if so, when and in what form?

Mr. FOWLER. The first point, Mr. Chairman, is yes, we should be and indeed are thinking very hard about what the world is going to look like once the consent decree or what we call the modified final judgment of Judge Green is in effect on January 1, 1984. This is the time to be doing that work. And in my New Orleans speech indeed I suggested that we need to look at the intercity exchange market and see what we can do to deregulate that, ask those questions, and begin to think and plan now.

What I have in mind specifically, to answer your question, is that we need to look at those areas where we call discrete services, where we do not have the problem of joint and common costs involved as a first or starting point. For example, new satellite services or other discrete services, not tied into the network might be where we would want to start limited market tests, limited geographically to two or three markets, where we permit AT&T to do things subject to little or no regulation.

As long as basic services in those markets, for example, are regulated, there is no reason why we cannot let AT&T loose, so to speak, to come up with innovative new services it would provide to consumers. After all, the consumer would be the beneficiary. We have to do it carefully, though, because AT&T still enjoys a great deal of market power. But it is clear to me that that is changing, particularly with the MFJ.

And so Gary and I have talked with others in the common carrier bureau, and right now is the time to be working on that, and we are. And I think we will have Commission support to do some things. Indeed, I hope we can perhaps do some things this year on a limited basis.

Gary.

Mr. EPSTEIN. The Chairman has asked us to look seriously at these issues. There have been in the last year three major decisions, fundamental changes in the telecommunications world. They are, as the Chairman indicated, the modification of the final judgment due to go into effect on January 1, 1984; second, our access charge proceeding, which is due to go into effect in 1984; and third,

the restructuring in the industry caused by the computer II decisions.

What we have been discussing is that now is the time to begin looking down the road a little bit, seeing what is going to happen once these fundamental policy decisions are in place. Now is the time to begin letting the ideas out and beginning to get public comment and people's thoughts while these decisions are being implemented.

Senator GOLDWATER. Well, Mr. Chairman, there have been allegations that breaking up AT&T together with increasing FCC decisions would cause radical increases in residential telephone rates. In general, do you agree with that assessment?

Mr. FOWLER. I do not, because we are talking about the ownership of facilities changing hands, and basically that does not have a lot to do with any impact on local rates. So it is very difficult for us to see any significant impact on local rates as a result of the divestiture.

There is a question as to the financial viability of the BOC's once divested from AT&T and their ability to raise that in equity capital. That might cause some increase in local rates, for example, where they are no longer a part of AT&T. But we do not see right now where that particular proceeding in and of itself is going to have any significant effect on local rates.

Senator GOLDWATER. With that in mind, what impact do you believe the decisions will have on telephone rates, universal service, implementation of computer II decision, particularly the deregulation of the customer premises equipment, the FCC's decision on the appropriate depreciation rate of the telephone equipment, and the access charge decision that will require all telephone users to pay a new charge for gaining access to the telephone network?

Mr. FOWLER. Gary, do you want to take a stab at that?

Mr. EPSTEIN. Mr. Chairman, there is no question that local residential rates are going up. I think that that is generally agreed. What is happening is that we are moving from a monopoly to a competitive situation. We are moving to a situation where local rates have been subsidized by other elements of the closed monopoly telephone industry. The Commission, with the help of the Congress and the courts, has been moving toward a new public policy of competition where those subsidies can no longer exist. The removal of these subsidies will increase local rates.

Now, as the result, the Commission has been very sensitive in all of its decisions to this problem. Where local rates will increase, I think that the Commission has done its best to ease the transition process even though those ultimate rates will more closely approximate costs. In particular, in difficult and egregious situations such as the ones Senator Pressler was talking about, we actually build into the system targeted subsidies so that universal service is preserved and so that local rates do not become beyond the reach of the ordinary person.

So the answer to your question is yes, as a result of the competitive marketplace and Commission decisions implementing it, local rates will go up. The Commission has done its best to allow transition periods and, in particular, subsidies have been built into the system to protect universal service.

Senator GOLDWATER. All right. I hope you are right.

Mr. Chairman, the Commission's access charge plans would change the status quo by requiring local customers to pay non-traffic-sensitive costs of the local network assigned to interstate long-distance service. Now, how does this square up with the concept of universal service, and will not the costs force many users off the network?

Mr. FOWLER. I think, Senator, that the first question you asked, how does our decision square with universal service, the decision, indeed one of the centerpieces of the decision, was our concern that we preserve universal service. To that end, we wanted to make the transition as smooth and as steady as possible to avoid any untoward increases, for example, in what is then what we would call a local telephone bill.

No. 2, I have indicated that counterbalancing that where people make an average number of long-distance telephone calls—for example, six or seven a month—they may actually be better off. The overall cost of their bill long distance and local, may well be cheaper than prior to the decision.

For the high cost and rural areas, we covered that when we said that we established a special fund to make sure that their local rates do not unduly go up, to keep a lid on those by visiting an ever so slight subsidy on all of the rest of the Nation's telephone subscribers, so that we can keep universal service in place.

Having said that, I think we will have succeeded in doing that, we have several other charges we had to face. We had to end discriminatory prices so that everyone pays the same for a like service. We wanted to avoid uneconomic bypass—that is, large users of local telephone systems might be encouraged to go off the system if we had continued the subsidies which they had to pay because they used it more than others did.

In other words, when you have those costs for non-traffic-sensitive plant, somebody has got to pay for it, and if the person who causes the cost does not pay for it, somebody else pays for it.

If that cost gets so high that it is cheaper to go out and construct your own facility, and that means that the larger user goes off the network, he is no longer taking care of any of the costs.

And that means that the people who are still on it—and we think that typically those costs would be borne by your middle-income people—it would mean that their phone bills could go way up.

And as more and more big users drop off, that accelerates the cost for those who remain on the network, and that, in turn, accelerates those big users, others, getting off and building their own facilities—what we call uneconomic bypass.

That is a very serious problem because if that happens, there is a point of no return that is reached where you have these big users gone, not picking up the costs, and telephone costs absolutely skyrocketing, indeed threatening universal service even to middle-income people because they have got to pick up all those costs.

So we provided for a transition. We tried to make it as smooth as possible. This will give authorities time to take care of the problem of lifeline services. And in that regard, we have mentioned the possibility in the access charge decision of a CPE excise tax which

would be a tax on all what we call customer premises equipment, modest in scope, where you could target poor people who could not afford rising telephone costs, to insure that they would continue to be able to have local basic telephone service. And that will give plenty of time for Congress to look at that if in fact it becomes a problem, because we have a very long 7-year transition period and we can actively be monitoring that.

If we see a problem there, we will be in touch with the Congress to talk about an independent subsidy outside the telephone system being used to insure that people still have basic phone service.

Senator GOLDWATER. Well, Senator Stevens has just joined us. In view of the general direction of the conversation lately, I wonder if you would give the Senator a broad look at what you think would apply to Alaska.

Mr. FOWLER. Yes, indeed. Good morning, Senator. I think I could parallel the remarks I made to Senator Pressler earlier that in our access charge proceedings, Senator, we are very, very sensitive to the needs of rural and high-cost areas such as Alaska and South Dakota.

What we structured in that decision was what we called the universal service fund, which in essence is a subsidy paid for by all the telephone users of the country to help out in those high-cost and rural areas to keep the local telephone rates down, to keep the impact of our decision from inflating the telephone bills in those areas unduly.

We are confident that this fund will do just exactly that. It turns out that the number of subscribers in those areas is, relatively speaking, very few in proportion to the number of total telephone users in the country. So the subsidy is very easily handled. It comes out to about a penny a minute on long-distance telephone calls that people will bear as a subsidy.

We think it is worthwhile. Indeed, an argument could be made that for those people who are paying that subsidy, which is everybody, it makes sense because it makes their telephone more valuable by keeping people in Alaska and others on the system. So we have been very sensitive. It was one of the key components in our decision.

Senator STEVENS. Do you think you have the legal authority to do that? I know it was in our Senate bill that was passed. Senator Goldwater worked with us on that. Do you have the legal authority to do that?

Mr. FOWLER. Yes, sir. We believe so. We believe that universal service, although not explicitly stated in the statute, can be read into the statute. It is clear that Congress intended that from the language generated by the statute. It gave us the responsibility of overall superintendency of the National telephone network. To that extent, it seemed to us that that network can only be as useful to each user of the network as the number of people that we have on the network. So we do think that we do have the authority to do that.

Senator STEVENS. Will that bring about total integration of Alaska and Hawaii into the national rate pool then?

Mr. FOWLER. Are you talking about national averaging?

Senator STEVENS. Yes. We are the second step now.

Mr. FOWLER. Yes, that is our intention.

Senator STEVENS. To go to full integration with the national averaging concept?

Mr. FOWLER. Yes, sir.

Senator STEVENS. What will be the impact on the individual residential rates? Have you been able to get a dollar figure out on that?

Mr. EPSTEIN. Senator, we do have some figures. It depends upon—you have to look at the overall long-distance and local rates. The maximum impact depends upon the action which will be taken by the Joint Board in Washington next week, which, as I indicated before, will set the total amount of the Universal Service Fund, and therefore will set a cap on how much local rates can go up as a result of the access charge decision.

We think, on a national average, the break point where there will be no increase on a customer's total bill will be where the customer makes about five or six long-distance telephone calls a month.

What we have required in the first year of the access charge proceeding is basically a \$2 increase in flat charges for the residential subscriber and \$4 for the business subscriber. As I indicated, the maximum increase that will be allowed will depend on the actions implementing the Universal Service Fund taken by the Joint Board of Federal and State Commissioners next week in Washington.

Senator STEVENS. I know the Joint Board is meeting. I hope to be able to present a statement to them at least in writing.

Mr. Chairman, if you would permit me a couple more questions here.

Senator GOLDWATER. Go right ahead.

Senator STEVENS. In terms of what you are doing, what is going to be the impact on separations as far as the funding that will go to the local utility without which we would not have any long-distance operations?

Mr. EPSTEIN. The separations decision is a decision which is required by congressional statute to be made by the Joint Board which is meeting in Washington next week. Some of the proposals that are before the Joint Board, the ones that have received the most popular support, are basically to freeze the allocation between the interstate and intrastate jurisdictions.

I think that the Federal and State people on the Joint Board are coming pretty close to a consensus that, at least for the immediate near-term future, would keep the allocation basically where it is. But that is a recommendation which will be made by the Joint Board next week.

Senator STEVENS. There are some estimations that the change would bring about a \$300 to \$400 a month increase in terms of local users without regard to long distance. Is that going to be possible under your decision?

Mr. EPSTEIN. I do not think so, Senator. That is the whole purpose of this Universal Service Fund, to keep the magnitudes of those increases down to a reasonable level where universal service is not destroyed.

Senator STEVENS. I understand that would be the case in terms of long distance. The problem is in the past separations have actually supported a very high-cost local exchange, which is part of the national system. You know, when you deal with the Postal Service, the cost of sending a 20-cent letter from Eek to Unalakleet is probably more than sending one from Miami to New York, but we absorb that into the total system.

Do you envision a total national system whereby the local distribution costs where they exceed the norm will also be paid out of this pool?

Mr. EPSTEIN. Yes, sir, that is the purpose of this Universal Fund. And it is a mandatory fund which all interexchange carriers will have to pay into. The very purpose of the fund is to permit these targeted subsidies which we were talking about.

Senator STEVENS. My bright young assistant is just in. Can you discuss this bypass problem he is trying to tell me about?

Mr. FOWLER. I would like to ask Mr. Halperin to expand on this, Senator. It is a concern that certain telecommunications users, typically large ones, may move off the network and set up their own private systems. That means they are no longer picking up the costs of the network that everyone else uses. That means the users that remain on the network, typically smaller users or small business users, will have to pick up not only the costs they picked up before but the costs that are no longer being picked up by these large users.

Now, as to the evidence of bypass, "evidence" is a word that is a little tricky because, unfortunately, in a decentralized economy such as we have, where we have individual planners rather than a command economy such as the Soviet Union has, we have no way of knowing from day to day what they might be planning in the way of telecommunications systems, whether private or continued use of the system.

But we do have some evidence already that bypass indeed has occurred, indeed is occurring. I cite now the \$100 million alternative private system that Merrill Lynch is constructing in New York City. There is a Starnet system that has been constructed in Las Vegas, taking large users off the network.

The point is if you have large-scale bypass, when it happens, it will be too late, because once large users have made capital investments in their own private systems, that is the point of no return. They can no longer be interested and have no incentive to come back onto the system.

So if it is reasonable to suppose as a result of pricing policies that you have distortions where they have to carry subsidies above the costs, a reasonable cost, of those services, and they can build other systems that are cheaper and do the same job, that is the basic central theory for supposing that bypass will occur. It is a very logical assumption, and indeed we have already seen it happening.

So we had to move, we felt, now, rather than wait until it was too late. So uneconomic bypass was one of the reasons why we made the access charge decision.

Senator STEVENS. Would the impact of that decision be that those bypasses that are economic will be able to survive?

Mr. FOWLER. I am sorry, Senator?

Senator STEVENS. You were saying uneconomic bypasses cannot continue under this decision. Is it right that if you determine they are economic, then they will be permitted?

Mr. FOWLER. Yes, sir. I think it would be a very unwise national policy to say that you cannot construct a system that is cheaper than another system from a private productivity standpoint, have a national policy that would seem to me to discourage new and innovative technologies alternative to the national system.

Senator STEVENS. Will the economic systems be contributing to the national pool?

Mr. FOWLER. You mean the private systems?

Senator STEVENS. Yes.

Mr. FOWLER. No, sir, they would not.

Senator STEVENS. So if I wanted to—

Mr. FOWLER. So what you want to do is make the national system as efficient as you can and as cost based as you can so they will have no incentive to construct their own private system because it is better to stay on the current system, it is more efficient, they do not have to invest all the capital and so forth.

Senator STEVENS. Well, what about a charge when they attempt to interface with the national system?

Mr. HALPERIN. Yes, sir, there could be such a charge in the event of an interface with the national system and a use of a local exchange, even if it was called over privately built holdover.

Senator STEVENS. Would they pay the same rates as anyone using the national system and using the local utility subsidized from the pool?

Mr. HALPERIN. Yes, sir. One of the basic thrusts of the Commission's decision which was reached in December was to move to eliminate the discrimination between a variety of public systems and the public system that is available to you and me. Any and all uses of the local exchange will result in a payment both for the use of the local switches and a payment to the universal service fund regardless of whether it is brought there by the telephone company's long-distance network or by a private system on the network.

Senator STEVENS. I am not sure I understand this. Los Angeles could set up its own system and be considered private and not have to pay any of the costs for local service. None of the local service rates would pay any portion of the national pool, and anyone who wanted to make a call out of the Los Angeles area into the interstate system, they could come in at the same rate as the local private system that was supporting the pool. Is that right?

Mr. HALPERIN. Yes, sir. The pool is entirely supported out of long-distance revenues because of all the pressures on local ratepayers. There is no proposal that the FCC has made to fund the subsidy pool from local service revenues. It would be a payment that would be based upon each long-distance minute. So it would only be long-distance users that were funding the pool.

Senator STEVENS. I see.

Mr. Chairman, I thank you for your patience. I do have some questions I would like to submit for the record, if I may.

Senator GOLDWATER. You may.

Senator STEVENS. You have been very good to us, and your advice has been great in the past as far as dealing with these complicated problems. I have got to go back and chair the Defense Subcommittee. I do appreciate your letting me come in.

Senator GOLDWATER. Mr. Chairman, as you know, the committee has been critical of past U.S. efforts to prepare for international communications conferences. S. 2469 was reported by this committee last year. It established a Cabinet-level coordination committee to insure that the United States has a systematic way to prepare for these conferences.

Do you agree that we have to do more to protect and promote our own interests?

Mr. FOWLER. Yes, I do, Mr. Chairman. My experience now—I have been involved in two major conferences, one the Rio Conference, which dealt with AM radio, and the second one was the ITU Conference. The chairman of the Rio Conference was Connie Shafer and the Chairman of the ITU Conference in Nairobi was Michael Gardner.

I think in both cases we were superbly organized. We had all the resources. We had an efficient management program, and everyone knew what they had to do. It was much like preparing for battle. Everyone manned their stations admirably.

But I think we have to say we spent a great deal of time attempting to coordinate and we lost a great deal of time and expended undue amounts of energy in attempting to reach competitive positions among the different branches, particularly the executive branch. So, so far so good in terms of conferences.

But I think we need to consider something along the lines of that bill that you mentioned so that we have some individual in the executive branch who is able to speak with some authority to bring the executive branch departments together more quickly, more efficiently, bang heads so that we can move more quickly and stop expending so much energy.

We have not hurt ourselves yet. We have been fortunate. We have to work a lot harder. But I do think we need to improve that. So while I am satisfied with what we have done so far, we can do better.

Senator GOLDWATER. I think it is so important that we ought to continue insisting on a single entity in the executive branch to coordinate these international policy conferences. But in light of the problems we have had in getting the State Department to act even on routine matters, is the department the appropriate place in the executive branch for this function of your Commission? I think this is really one of the most important things that we face.

I will never forget Herbert Hoover, Jr., telling me after the first conference he went to, he would never go to another one because he wound up with only one friend, and that was France. They really were not too friendly.

But with all of our emerging Third World nations now getting into communications and the way they are outvoting us every day in the United Nations, I think we have to be very well prepared for any of these international conferences.

I want you to know that we will do everything we can as a committee and a subcommittee to help the executive branch realize

how very, very important this is to the whole future of the U.S. communications. I would hope that as you get your mind more definitely made up on what you would recommend to the President or to the Secretary of State—in fact, I had breakfast with him this morning and we talked about this very point very briefly—the general need to know what we are doing when we get into these next conferences and not appoint a Commission to come before the conference and then expect them to go there prepared. I think this could actually be a full-time either subdivision of the FCC which I would prefer to a subdivision of the State Department, but to the point that you keep qualified people on this group to enable them to be able to answer the questions and fight what we need when we go to these conferences.

I would like to work with you on that. So I hope your whole Commission and your staff will keep that in mind. I think all communicators in this country realize that we are heading for trouble if we do not go better prepared.

Mr. FOWLER. We pledge our full support, Mr. Chairman, and I want to tell you that something along the lines of the bill that you discussed earlier would be a good starting point.

Senator GOLDWATER. Well, let us keep on this because it is most important.

Mr. FOWLER. I agree, sir.

Senator GOLDWATER. Mr. Chairman, in its recent decision, the FCC in a footnote made known its application of the computer II decision to international services. This decision ruffled some feathers here and abroad, and I suppose some thought it was a backdoor approach to unilateral lifting of international resale restrictions.

What has been done to unruffle those feathers?

Mr. FOWLER. I just want to generally comment, Mr. Chairman, that, No. 1, on the matter of international resale, we have not made a decision yet. That is still an open docket. We have stressed that to foreign entities in the informal discussions we have had.

No. 2, as to the whole issue of computer II and its applicability internationally, I note that NTI has come up with a very thorough report in which it says that computer II is sound national policy applied internationally.

Beyond that it is very sensitive and I am not sure I would care to comment in great detail, because of our foreign friends in this forum.

But I know Gary has some further points he wants to add.

Gary.

Mr. EPSTEIN. Mr. Chairman, just one or two further points. The Commission decided in a 6-to-1 decision last summer that the computer II decision applies to international services where either one end or the other is in the United States. That is our regulatory regime in the United States.

I believe that some people, as indicated in the NTIA international report, for their own competitive purposes may have somewhat mischaracterized the decision. As the Chairman said, it is a rather delicate matter, and we are doing everything we can. We are working with the State Department and the Chairman has had some informal discussions on his various trips abroad to clarify exactly what our policy is.

With respect to our policy, our procompetitive policy, I bow to no one in fostering it. I think that it is the correct policy. While we do not have the right or the ability to export our policy overseas, I think we should stand up for what we believe in, while at the same time not forcing our ideas on other people. Quite diplomacy is what is needed, and I think the Chairman and the Commission are active in that area.

Senator GOLDWATER. Mr. Chairman, in 1981 Congress passed the Record Carrier Competition Act barring the international record carriers from renting Telex equipment at an extremely low price and making up the difference in regulated Telex transmission charges. I understand that last year the Commission had to resort to a cease-and-desist order to enforce this provision.

Has this cease-and-desist order effectively remedied this problem?

Mr. FOWLER. Senator, I think that we do not see that as a particular problem. We have looked at this matter. I want to generally state that in regard to 222 we have, I think, faithfully and with great fidelity implemented the will of Congress in what you have intended under 222. We have inspected all the technical requirements. The carriers have interconnected, and it is moving along rather nicely.

There are some little glitches here and there and the one that you mentioned on anticompetitive pricing practices is one that we have had some concern and looked at.

Gary, would you like to comment further on that?

Mr. EPSTEIN. Yes, sir. The cease-and-desist order to which you referred was issued at the Bureau level rather than at the Commission level. We indeed, pursuant to the mandate of the Record Carrier Competition Act, indicated that practices which involved cross-subsidy in terminal equipment should cease. We have had a number of informal contacts with the international record carriers and we are trying to police that area.

If we do not see progress being made in that area pursuant to the statute which Congress passed, I think we will either have to go to the Commission itself for enforcement action or perhaps craft some additional regulatory tools to make sure that the Congress policy is implemented.

Senator GOLDWATER. Well, gentlemen, those are the questions I have and the questions of the other members of the committee. I regret we did not have a better attendance. But we are at that point of the year where none of us have enough time to get anything done. We are starting to engage in the annual foolishness on the floor. So we have to get ready for those things.

I want to thank you, Mr. Chairman, and each of the members of your staff. You have a highly competent staff. You are doing a good job. Naturally, I keep track of this very closely. We did not talk about the no-code license this morning, but I will get to you on that.

Mr. FOWLER. I will be glad to talk to you about it.

Senator GOLDWATER. Anytime.

The meeting will stand adjourned.

[Whereupon, at 10:30 a.m., the subcommittee was adjourned.]

[The following information was subsequently received for the record:]

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

MASS MEDIA AND NONCOMMON CARRIER

Processing of LRTV

Question. Assuming the Commission meets its target date of March 31, 1983, to adopt rules for conducting lotteries, why will it take the FCC as long as 9 months—as late as the end of 1983—to begin implementing these lottery rules?

(a) Since most LPTV applications past cutoff are mutually exclusive, doesn't this mean that the FCC will grant virtually no LPTV applications in 1983?

(b) What steps and/or resources would be required to make it possible for the FCC to be in a position to begin holding lotteries at about the same time the minicomputer is ready (June 1983)?

Answer. Congress in recent amendments to the Communications Act of 1934, as amended, authorized the Commission to adopt procedure specifying random selection in the low power television service. However, Congress also indicated that minority and diversity preferences were to be considered in the random selection process; that is a weighted lottery. In order to accomplish this objective a complicated computer program must be developed which can mathematically calculate the relative preferences of lottery participants. Further, considering the large numbers of applications involved, now approximately 12,000, the Commission's goal is to develop a computer program such that the process of selection is as streamlined as possible. For example, once the appropriate information has been entered, the computer should be able to produce a list of the lottery participants, their respective preferences and number block. The computer program must be written to permit corrections to the above list; to issue a notice of tentative lottery winner; and to issue a notice of final lottery winner, with appropriate information. To aid in mailing notices to applicants, corresponding address labels must also be produced. Further, the computer program must permit the storage of applicant information in the case of multiple lotteries in the "daisy chain" situations. Due to the complicated nature of the program and, the expected "bugs" that will have to be worked out, the fall of 1983 is estimated as the lottery implementation date. Substantial Commission resources have already been allocated to development of the computer program. Thus, the allocation of additional resources would not significantly shorten the time necessary for development and testing of the computer program.

In addition to the complicated lottery program referred to above, random number generators must be secured that are appropriate for a public lottery. Research is now being done, through consultation with other governmental bodies and organizations that hold lotteries, as to an appropriate random selection device. The Commission will consider various alternatives in late March 1983. Depending on the nature of the device selected, however, a procurement price may have to be employed to secure the needed equipment. This is a time consuming process, which further accounts for the date estimated for actual implementation of the lottery process.

Question. Why has the Commission issued only one cutoff list in the past 9 months, including only 84 LPTV applications?

(a) Since most tier I applications have not yet been placed on cutoff lists, and since an application must be placed on a cutoff list before the complete universe of mutually exclusive applications for a given channel in a given community can be determined, when will the Commission place the remaining tier I applications now on file on cutoff lists?

Answer. One cutoff list, consisting of 84 applications, has been issued during fiscal year 1983. Prior to placing an application on a cutoff list, the staff must be in a position to determine that it meets the interference protection criteria of the new low-power rules and is otherwise acceptable for filing. Because of the limited capabilities of our present computer, it is not possible, at this time, to make the necessary determinations in all cases. The computer hardware to make these judgements along with the required program will be available for use in June 1983. In the meantime, the staff can only cutoff and process those LPTV and translator applications that meet an interference standard that is more stringent than the standard provided by the new rules, but which is within the capabilities of our present computer. Action on applications that do not meet the interim interference standard must be deferred until the new computer is delivered and programmed.

The 1983 cutoff list attracted 500 competing applications. Thus, until lottery procedures are in place, the mutually exclusive applications must be held in abeyance,

further contributing to the growing backlog of pending applications. In addition, the applications filed do not contain the minority and diversity preference information necessary in assessing lottery weights, as required by Congress in the recently enacted amendments to the Communications Act. The Commission will consider a new form that requires the preference information in late March. Then the form will be subject to approval by the Office of Management and Budget.

In view of the above, the Commission has been reluctant to issue cutoff lists until a lottery mechanism is developed for processing the mutually exclusive cases. Further, as each cutoff list attracts further applicants, the Commission has determined that in the long term it would be more expeditious to wait until the final, complete application form is available, so that time delays will not be incurred later in securing preference information from applicants.

Question. Most TV viewers live in tier II or tier III areas; yet the FCC is, at present, accepting applications for tier I areas alone. When will the FCC stop accepting additional tier I applications, so that tier I applications may begin to be processed?

(a) If the FCC continues to accept many more tier I applications, will not the introduction of the LPTV service into more populous areas be delayed indefinitely?

Answer. In establishing the tiered processing system, the Commission repeated its principal goal in the low power proceeding: To provide programming, including local outlets, in unserved and lesser served rural areas. Thus, although maintaining a freeze on tier II and III will delay the introduction of service into the more populous areas, tiered processing will enable the Commission to focus on the underserved markets first. Once computer processing is initiated, the lottery procedures are in place and a substantial number of tier I applications have been processed, the Commission may then look toward accepting applications for tier II and III.

Question. As late as December 1982, the FCC was indicating that processing of tier I applications was likely to be completed by the end of 1983 or in early 1984. Now the Commission indicates that lotteries may not even begin until the end of 1983. At this time, when does the Commission foresee the completion of processing for tier I applications?

Answer. There are now approximately 12,000 tier I applications pending. Of those applications, 3,500 were filed within 2 days in mid-March 1983. They were all for the same applicant. Thus, because tier I applications continue to be received at the Commission in significant numbers it is not possible at this time to estimate when processing of this tier will be completed. Moreover, as cutoff lists are issued in the future, additional applications can be expected.

Question. When can we expect the FCC to authorize teletext services, and what kinds of content regulations may be imposed? Will the FCC set any technical standards?

Answer. The Commission will consider a report and order in the teletext proceeding at its March 31, 1983, agenda meeting. The document will address whether the service should be authorized, as well as content regulations and technical standards; however, given the pendency of these issues in this open docket, it would be inappropriate to comment on the merits at this time.

Question. Mr. Chairman, can you assure this subcommittee of a date certain when the SCA rulemakings will be decided on by the FCC?

Answer. The FCC decide the SCA rulemakings by the end of April 1983. It is not possible at this time to target a specific agenda meeting, due to staff workload and scheduling considerations. It is important to note that the noncommercial FM SCA proceeding was initiated in August 1982. For a proceeding of this magnitude, resolution in well under one year should be considered expeditious.

COMMON CARRIER

Question. While just about all of the households in the lower 48 have telephone service, in Alaska entire villages are served by one telephone. Because of the extremely high cost of serving Alaska, I am concerned with the FCC's activity in docket 78-72, setting access charges, and in docket 80-286, modifying the existing Ozark separations procedures. Because of the potential severe impact these cases will have on Alaska, I seek assurance from you that Alaskan ratepayers will not experience a disproportionate burden compared to ratepayers throughout the entire country. Are you able to provide me such assurance?

Answer. One of the most difficult decisions that the Commission has had to face is the balance between the goals of network efficiency and survival and of insuring that service is widely available. As you note, this problem is particularly severe in Alaska.

In its access charge order, the Commission adopted two tools to protect consumers from severe price changes. First, the Commission decided to phase in cost-based access charges over a 5- to 7-year transition period in order to protect customers from price changes that, if they came as a sudden shock, might lead to confusion and loss of service. Second, and perhaps even more important, the Commission concluded that a permanent subsidy to high cost areas should be instituted.

The details of the universal service fund have not been fully determined. The various options considered by the joint board all involve several hundred million dollars of interstate support for high cost areas. States could also develop their own programs to aid high cost companies within their States or to target additional State generated revenues at individuals with special needs. Because many of Alaska's telephone companies do have costs well above the national average, Alaskan carriers are likely to receive sufficient revenues to prevent subscriber bill increases of the magnitude that some have feared.

Question. Alaska intrastate toll rates are, in comparison to other States for comparable distance, the highest in the Nation. This is the case even though interstate settlements presently paid by AT&T to the telephone industry in Alaska are approximately 150 percent of the 1982 two-way interstate toll revenues. Any changes to the interstate separations/settlements methodology can result in even greater pressures on State toll rates and local exchange access rates. As a member of the Joint Board, are you convinced there are adequate safeguards for areas such as Alaska and rural areas throughout the country to prevent undue rate burdens and suppression of universal telephone service?

Answer. The Separations Manual allocates costs between State and interstate jurisdictions. Once allocated to the State jurisdiction, these costs may be recovered either through local rates or through intrastate toll rates. From the standpoint of a high cost area like those served by most Alaska telephone companies, the important decision to be made by the Joint Board is not the basic allocation factor but the Universal Service Factor. Since interstate revenue requirements other than the Universal Service Fund are to be recovered through flat end user charges, shifts of revenue to the interstate jurisdiction, absent a Universal Service Fund, would do little to keep Alaska rates low. The Universal Service Fund is devised as a method of keeping rates in high cost areas below their costs. Companies with very high costs will receive a significant amount of support, keeping local rates below what would otherwise be necessary. In the Access Charge Order, the Commission instructed its staff to prepare to monitor the universal service effects of the access charge. The access charge also incorporates a gradual transition. These safeguards should allow the Commission to step in and take further steps to promote universal service should this prove necessary.

Question. In very practical terms, what effect will the Commission's access charge plan have on the basic monthly recurring charge for residential and business phone users? Is there a dollar figure?

Answer. In 1984 the minimum per line interstate access charge will be \$2 per month for residential subscribers and \$4 per month for businesses. Over the following 5 to 7 years, the access charge will probably increase as customers are asked to pay the interstate portions of the costs of those facilities that are dedicated to them. How high these long run charges will be depends on technological change, the rate of inflation and, in the case of many high cost companies, the extent of the Universal Service Fund. On a nationwide average basis, however, assuming 1981 costs and a constant interstate cost allocation, the typical access charge would be in the \$4-\$5 range. Of course, increasing price levels are likely to make this figure higher.

QUESTIONS OF SENATOR STEVENS AND THE ANSWERS THERETO

COMMON CARRIER

General non-traffic-sensitive costs (NTS)

Question. Is the common carrier rate element, after the 7-year transition, going to recover only Universal Service Fund (USF) costs? What percentage of NTS costs nationwide will be allocated as USF costs after 7 years?

Answer. Over a 5-year period the transition element will be shifted from the carrier common line element to the end user common line element. At the same time, the scheduled reduction in surrogate CPE and in embedded inside wire will costs take place. At the end of the 5-year transition (and therefore at the end of the 7-year period) surrogate CPE and the transition element will no longer be recovered through carrier common line charges. Whether inside wire costs remain depends on future Commission action. Under current rules, however, expensed wire and any re-

maining embedded wire and CPE that remain subject to regulation will continue to be recovered through the carrier common line element in addition to the USF costs.

While the Commission recognized the importance of a Universal Service Fund, at the time that the access charge order was adopted no record existed to quantify this need. Such a record, however, is being developed in a concurrent proceeding by the Federal-State Joint Board. The Commission therefore requested that the Joint Board advise it on this issue. It is anticipated that the Joint Board will instruct the staff on this and other issues in April.

Question. What is the actual dollar value of the NTS costs carriers are now paying (in 1983)?

Answer. Total interstate NTS costs are estimated to equal \$9-9.5 billion in 1983, assuming that AT&T achieves its authorized rate of return.

Question. How does this number change if interstate NTS costs are included?

Answer. Total NTS costs equal roughly \$34-36 billion. Because of the differences in how states treat allocation between toll and local costs, and because the same carriers provide the bulk of both local and intrastate toll traffic, it is not possible to achieve an accurate picture of how much of intrastate costs can be said to be paid by carriers.

Question. The decision proposes that end users will pay this amount directly as a flat charge, on a nonaveraged basis, relieved only by any USF support the local exchange carrier receives. On a nationwide average, how much will this flat charge be per month? Since exchanges will not be averaged, what will the high and the low be?

Answer. Because of the transition adopted, flat charges will not be required for at least seven years. It is certain that costs will change during this period, but how large these changes will be is difficult to determine. In 1981 roughly \$7 per line of NTS costs were allocated to the interstate jurisdiction. Much of this, the embedded inside wire, detariffed CPE revenue requirements, and the NTS costs associated with central office equipment, plus the USF amount, will not be recovered through flat charges. Costs that will eventually be recovered through these flat charges amount to roughly \$4 per month in this period.

Until the rules are established for the USF, it is impossible to predict the high end of cost. Several companies presently have interstate costs per line that are three or more times as high as the average. How this would affect rates, however, cannot yet be determined. Low cost companies would be able to establish low flat fees. Few companies have costs substantially lower than the average.

Bypass

Charles Wohlstetter (Chairman of Continental Telephone) was quoted last month as saying that the real bypass problem is increased subscriber charges forcing people to terminate service. The Commission seems to be heavily influenced by concern that carriers will bypass local exchange companies to reach end users.

Question. What evidence has the Commission accumulated that bypass is a problem? How much of that problem, if any, is attributable to NTS costs?

Answer. The Commission is concerned with the availability of affordable service as well as with the inefficiencies generated by bypass. In appendix F to the Access Charge Order, the Commission reviewed the growing evidence that bypass is a problem.

In fact, the Commission has long been aware that bypass is a concern. Traditionally, both standard telephone service and bypass (i.e., private-line services) were offered by one entity. Thus, bypass was rarely perceived. Nevertheless, independents serving an area with a heavy military or U.S. Government presence are aware of the volume of traffic that is currently carried over either the FTS or AUTOVON systems. Such traffic benefits from lower charges and does not make a contribution to local rates.

More recently, a variety of competitors has emerged. These competitors lack the incentives that AT&T has traditionally had to maximize use of local loop facilities. New technologies are increasingly available to bypass the traditional common line. As was noted in the Access Charge Order, such alternatives include cellular radio, digital electronic message service (DEMS), direct satellite services, cable TV, and other technologies.

What these alternatives mean is that more and more of the highest volume callers can escape the subsidy requirement and that this burden must fall on smaller and smaller users, perhaps denying the benefits of affordable long distance service to many. Limiting the number of subsidy payers in this way also makes it more and more difficult to sustain any subsidy.

Bypass may be divided into two classes, economic bypass and uneconomic bypass. Economic bypass occurs whenever some technology is available at a price below telephone service. Economic bypass is virtually impossible to restrain, and it is desirable. Uneconomic bypass occurs where pricing distortions make one service appear attractive even when it costs more to provide. This form of bypass is undesirable. Uneconomic bypass is generated by pricing distortion. The present usage-based recovery of costs that are both nontraffic sensitive and dedicated to particular subscribers results in a substantial distortion. Such bypass would be completely eliminated by prices that reflect costs. Flat-rate recovery of such costs makes a substantial step in the direction of cost-based rates and should, therefore, significantly reduce the threat of bypass.

Question. What evidence does the Commission have that the problem will become more significant in future years? How much is the problem ameliorated if the interexchange carriers pay 75 percent of NTS costs, 50 percent, or 25 percent?

Answer. In appendix F of the Access Charge Order, the Commission details its examination of bypass. Many of the technologies used for bypass are recent developments. Likewise, new competitors are emerging constantly. Finally, AT&T is now free from its traditional incentives to use the local loop and may pursue the cheapest options.

It is difficult to predict the portion of the problem that could be ameliorated under different possible distortions. There is a danger in experimentation, however. Once customers implement a bypass arrangement, they are unlikely to return to traditional use of the telephone network. Moreover, once a significant number of large users has selected bypass, other firms can also bypass, taking advantage of bypass systems designed by the largest users. The remaining users will bear an increasing share of the costs of the embedded base.

In the Access Charge Order, the Commission indicated its belief that bypass is a sufficiently small immediate threat that a very gradual transition can be entered into. A transition will discourage bypass even if short run distortions remain, so long as the transition is viewed as certain and reasonably timed.

Winners and losers

Question. Whose telephone rates are going up because of the flat charge and whose are going down? What's the crossover point in monthly charges?

Answer. It is difficult to answer this question because the extent of uneconomic bypass that would result from an access charge plan based upon current settlements/division of revenue cannot be calculated. If bypass were substantial, the flat charge could benefit all subscribers. If it were assumed that no one would change their calling patterns, on a nationwide average basis those with monthly interstate bills of around \$15 to 20—based on 1981 figures—or over would benefit. Of course, many with lower current bills would also benefit as a result of the increased ability to call and, equally importantly, the ability to receive more calls.

Question. What States will have to raise additional money from their subscribers? What States will have to raise less money?

Answer. The access charge plan does not require any State to raise more or less revenue from resident subscribers. The access-charge plan is devised to recover fully those costs allocated to the interstate jurisdiction.

Question. The FCC has conducted an exchange-by-exchange cost analysis of the United States. These results have not been made public. Will you make them available to us?

Answer. The FCC has not conducted such an analysis. The FCC has conducted a company-by-company analysis for those companies that complied with a voluntary data request. The results of this study will be available as soon as they are in a usable form. We anticipate that results should be available within several weeks.

Question. Based on the study, what are the average results of the access charge decision? The extremes? The statistical distribution?

Answer. As noted above, these data will be available as soon as they are in usable form.

Pooling and averaging

Question. The decision permits only the NTS carrier element to be averaged. That phases out after seven years except for the USF factor. Why has the Commission decided against averaging of these costs?

Answer. Many costs will, or may, continue to be averaged. First, the universal service fund will continue as a permanent averaging mechanism. Second, access charges are to be calculated on a study area basis. This allows for considerable averaging in most exchanges. Finally, the access charge decision is independent of any

decision to deaverage usage rates charged by interstate carriers. Many costs will be charged to such carriers.

The Commission did not more fully average costs because of its belief that averaging favors the less efficient carriers and penalizes the efficient. The commission also determined that alternative means of preserving universal service are available and would better serve the public interest.

Question. What will the end user charges look like on a State-by-State and company-by-company basis after 7 years?

Answer. End user charges are likely to vary from company to company and State to State. They are likely to be higher for those companies with above-average costs. The range of these costs depends on: One cost charges occurring over the next 8 years, and two, the size of the universal service fund decided upon by the joint board and the Commission.

The form of the end user charge depends on future Commission decisions. The order states that during the 5th year of the transition the Commission shall reconsider the effects of the access charge plan including the determination to require full movement to flat-rate end-user charges.

Question. How high will Alaska exchange rates go if end user charges are not averaged nationally?

Answer. Based on preliminary results in the FCC study, and on a limited sample of Alaska companies, the average 1980 interstate loop cost—excluding inside wire and CPE which will be recovered through usage charges—were about \$12 per month. If costs remained constant, at the end of the transition period the flat rate would rise by this amount. Of course, the universal service fund mechanism is designed to provide subsidy for such high cost areas.

Question. How high will Alaska exchange rates go if all intrastate NTS costs are also loaded onto Alaska end user charges?

Answer. Because all States operate differently, we are unable to assess the current subsidies between local and intrastate toll services. If the State adopted an access charge similar to that adopted by the Commission, intrastate access charges—average in 1980—for both local and intrastate toll service would be about \$11.75. If the State continued to recover inside wire revenues through flat charges, the charge would be somewhat higher—again, these numbers are based upon a partial sample of Alaska companies.

Question. How much money will be required for the USF to keep all exchange costs—NTS and TS—within 110 percent of the national average?

Answer. At the present time we are unable to determine such a total revenue requirement based on historic data. The data we do have available are useful in determining the range of variation from the national average. But do not reflect the total costs of telephone system.

Question. Why will a low cost exchange company ever join the carrier exchange association tariff? Won't it simply pay out money and never receive anything in return?

Answer. All companies, high or low cost, are required to join in the association for recovery of the transition element, CPE, inside wire revenues, and USF revenues.

After the transition period, low cost companies may still wish to join in the non-mandatory aspects of the association tariff to spare themselves the administrative burden of filing tariffs, or to reduce risk.

QUESTIONS OF SENATOR HOLLINGS AND THE ANSWERS THERETO

MASS MEDIA AND OTHER NON-COMMON CARRIER QUESTIONS

New services

Question. In May, 1982 semiannual agenda, the Commission projected the completion, of four significant dockets—VHF drop ins, use of the FM frequency (80-90), teletext, and UHF stations for New Jersey—by the end of fiscal year 1982. As of the middle of fiscal year 1983, none have been completed. Why is the Commission so far behind schedule on these "A" priority proceedings? When do you now expect these proceedings to be completed?

Answer. The Commission is behind in these proceedings that involve technical issues because we lack expert engineering staff to evaluate the comments and formulate rules for new services. We have lost several engineers due to attrition and would be unable to replace them even if there were no hiring freeze because our pay schedule is not competitive with that in the private sector.

With respect to the proceedings listed in this question, VHF drop ins is being worked on but no target date has been set; docket 80-90—FM drop ins—will be on a

Commission agenda within the next 60 days; teletext will be on the Commission's March 31 agenda; UHF stations for New Jersey will be completed by the end of fiscal year 1983.

Question. There are several other new service proceedings—MDS expansion, FM SCA, and daytime radio—not mentioned in last year's semiannual agenda that have also not yet been decided. When do you expect these proceedings to be completed?

Answer. We expect the MDS proceeding to be completed by the end of the third quarter, fiscal year 1983; the commercial and noncommercial SCA dockets should be resolved on an April Commission agenda; the daytime radio rulemaking is expected to be completed by the end of the fourth quarter, fiscal year 1983.

Question. You have mentioned new service initiation prominently in your testimony, yet the above delays indicate a lack of commitment. Are you considering moving staff to complete these proceedings more rapidly? Are you planning to introduce any new service proposals of your own?

Answer. We have considered moving staff to complete the rulemaking proceedings associated with initiation of new service. However, authorization of service—that is, application processing—is a critical element in getting new services on line to the public. The only staff we have available to more to initiation of new services is that now allocated to authorization of service. As our experience with low-power television indicated to us, we must strive to strike a balance between the competing, yet complementary, goals of creating new services and processing applications to provide those services. Beyond AM stereo, low power TV, teletext, MDS/ITFS, DBS, FM drop ins, expanded hours for daytime broadcasters and VHF drop ins, we are not planning to introduce additional new service proposals. We have proposed, however, to permit licensees to lease excess capacity on their auxiliary microwave stations—for example, studio-transmitter links and intercity relays—a report and order in this proceeding should be on an April agenda. We also plan to issue a further notice of proposed rulemaking in our ongoing TV multiplexing proceeding that would permit TV licensees to use their aural subcarriers as in the FM CSA proceeding.

Low power television

Question. In January, you stated in a letter to Congressman Dingell that by May 1, 1983, the Commission should be granting about 110 LPTV licenses per month. In your testimony, you reduce this number to at a minimum 25 to 35 per month? Why the discrepancy?

Answer. The discrepancy arose from a mathematical error made by a staff person computing the number of grants. Looking at the full paragraph—attached hereto—in the letter to Congressman Dingell, it may be seen that we project up to 35 lotteries per month, with 10 applicants per lottery. Assuming processing of 250 to 350 applications per month, with 10 per lottery and one winner per lottery, it is clear that 25 to 35 grants, not 110, may be expected. We apologize for the error.

Question. How many LPTV grants will be issued per month once the lottery is in use?

Answer. The number of lottery drawings will depend in part, on computer capacity. It is planned that 35 lotteries, each with approximately 10 applicants, will be held per month. However, the lottery winner will then be subject to the procedure set forth in the Commission's second notice of proposed rulemaking: In the matter of amendment of the Commission's rules to allow the selection from among certain competing applications using random selection or lotteries instead of comparative hearings—FCC 82-420, released October 7, 1982. As such, the winner will be subjected to legal challenges directed to its basic qualifications by the other applicant participants. The pleading cycle now proposed will span approximately a month and a half. Initially, this process will adversely impact the actual number of LPTV grants per month. However, as the computer program and lottery process becomes better established, the initial lag in the numbers will no longer be evident. Once all applicable systems are in place, approximately 35 LPTV grants can be expected per month.

Question. How many LPTV applications have been processed? How many construction permits have been granted?

Answer. There are now approximately 170 authorized construction permits for low-power television stations. In addition, another 165 stations have already been licensed. For the most part, the resources of the low-power television branch have been dedicated to completion of data base projects necessary for the initiation of computer processing by June, 1983. Nevertheless, the branch has been able to process approximately 110 applications a month. This constitutes approximately 18 percent of processed applications being grantable. The other processed applications are

either mutually exclusive with other pending applications and must await further processing by a more sophisticated computer or implementation of lottery procedures. Some applications are returned as being incomplete and insufficient or not in tier I—most rural areas—the first group of applications to be processed.

Question. How many staff members are processing LPTV applications today? Is this number going to increase? How many more licenses could be granted each month if, for example, ten more staff were added to the processing line?

Answer. As indicated previously, over the past several months, most of the resources of the low power television staff have been devoted to various projects needed to get Commission data bases sufficient to allow computer processing of applications. Now 5 GS-5/7 engineers and 1 GS-14 reviewing engineer technically process applications. A GS-11 analyst has been working with them, writing the correspondence when it is necessary to return an application. By May, 1983, the number of technical processors will increase. At present 4 analysts, 1 electronics technician and 1 supervisory reviewing engineer are totally dedicated to data base computer projects. Thus, when these projects are completed, the technical processing staff will increase to 10, plus reviewing personnel. Ten processors will double manual productivity. A total of fifteen staff processors would triple branch productivity to approximately 330 LPTV and television translator applications manually processed per month. Based on prior experience, we estimate that 18 percent of these may be grantable. Staff personnel, other than technicians and engineers, including lawyers, applications examiners and secretaries, handle the policy and support functions required by the LPTV branch. Increasing their numbers will not significantly impact on the number of applications processed for technical personnel are required for this task.

Question. When will the Commission complete action on tier One of LPTV processing?

Answer. There are now approximately 12,000 tier I applications pending. Of those applications, 3,500 were filed within two days in mid-March 1983. They were all for the same applicant. Thus, because tier I applications continue to be received at the Commission in significant numbers it is not possible at this time to estimate when processing of this tier will be completed.

Question. How many cut-off lists for LPTV applications has the Commission issued so far in fiscal year 1983? When do you expect to issue further cutoff lists?

Answer. One cutoff list, consisting of 84 applications, has been issued during fiscal year 1983. Prior to placing an application on a cutoff list, the staff must be in a position to determine that it meets the interference protection criteria of the new low power rules and is otherwise acceptable for filing. Because of the limited capabilities of our present computer, it is not possible, at this time, to make the necessary determinations in all cases. The computer hardware to make these judgments along with the required program will be available for use in June 1983. In the meantime, the staff can only cutoff and process those LPTV and translator applications that meet an "interference" standard that is more stringent than the standard provided by the new rules, but which is within the capabilities of our present computer. Action on applications that do not meet the interim "interference" standard must be deferred until the new computer is delivered and programmed.

The 1983 cutoff list attracted 500 competing applications. Thus, until lottery procedures are in place, the mutually exclusive applications must be held in abeyance, further contributing to the growing backlog of pending applications. In addition, the applications filed do not contain the minority and diversity preference information necessary in assessing lottery weights, as required by Congress in the recently enacted amendments to the Communications Act. The Commission will consider a new form that requires the preference information in late March. Then the form will be subject to approval by the Office of Management and Budget.

In view of the above, the Commission has been reluctant to issue cutoff lists until a lottery mechanism is developed for processing the mutually exclusive cases. Further, as each cutoff list attracts further applicants, the Commission has determined that in the long term it would be more expeditious to wait until the final, complete application form is available, so that time delays will not be incurred later in securing preference information from applicants.

License processing

Question. There has been much talk about the large increase in the number of license applications and consequently about the significant delays in license processing. How can this problem be alleviated, particularly in regard to increasing staff? [Please be specific as to how much staff and the cost for each service category.]

Answer. By Office of Managing Director:

The Commission is currently faced with resource shortfalls, in three areas. They are: authorized employment ceiling.

Funding the currently:

Existing services; and

New services.

Because of a gradual increase in the cost of an average workyear at the Commission, our fiscal year 1984 budget will fund only 1,806 full time permanent work-years. We have however, authorized 1,896 permanent positions. The difference between 1,896 and 1,806 means that at least 90 permanent positions must remain unfilled during fiscal year 1984. In order to fill these positions in fiscal year 1984, we will require \$1,534,000.

In addition to the restoration of our base positions, we currently have substantial pending backlogs in several services. These are FM radio, cellular radio, and 900 MHz paging services. We also will have in our Tariff Division a major workload where we must process the new tariffs which provide for the implementation of the access charges. We have provided below a chart which shows our resource requirements for these areas:

	Positions	Work years	Dollar requirement
FM	+ 31	+ 25	+ \$861,454
Cellular:			
Common carrier	+ 14	+ 11	+ 395,536
Admin. law judges	+ 7	+ 7	+ 319,864
900 MHz paging	+ 8	+ 6	+ 223,559
Access charge tariffs	+ 5	+ 4	+ 150,569
Total existing services	+ 65	+ 53	+ 1,950,982
New services:			
FM drop-ins	+ 30	+ 18	+ 705,214
VHF drop-ins	+ 15	+ 11	+ 376,380
Total new services	+ 45	+ 29	+ 1,081,594

In addition to these existing services, the Commission expects to act on at least two new services proposals during the remainder of fiscal year 1983. These proposals are for new FM radio and VHF television stations. We have provided above a chart which shows our resource requirements for these services:

Answer. By Mass Media Bureau:

In the Mass Media Bureau, the FM service has shown the most dramatic increases in applications receipts and end of year pending counts over the past 4 years. From fiscal year 1979 through fiscal year 1982 the FM new and major change receipts have increased 62 percent and the pending counts have increased 39 percent. There are several reasons for the increasing complexity of FM new and major change applications and the concomitant increase in the number of hours required to process them. The FM spectrum is becoming saturated and there are more applicants filing for fewer station slots. As a result, the number of mutually exclusive cases is increasing requiring more analysis and designation of larger groups for hearing. From fiscal year 1979 through fiscal year 1982, the actual number of FM new and major change cases designated for hearing increased by 366 percent and the number of total disposals (grants, dismissals, returns and hearing designations) increased by 39 percent.

In the FM license and other service, receipts have increased 17 percent and the pending counts have increased 22 percent from fiscal year 1979 through fiscal year 1982. There has been an increased workload due to the implementation of the automatic program test authority (PTA) procedures. Under this new system the station begins operating before the FCC reviews the license application. In some cases, the station causes interference or violates some portion of the construction permit which must be rectified before the issuance of the station's license. This has caused an increased requirement for staff analysis and a delay in issuing licenses. In addition, other interference problems must be solved before the license is issued.

For the remainder of fiscal year 1983, we are attempting to stem the growing FM backlogs through temporary reallocation of staff from other Bureaus within the Commission. With this staffing reallocation, the fiscal year 1983 FM backlogs can be

reduced by approximately 5 percent, from 1,415 to 1,347 applications in new major changes and by approximately 4 percent from 1,327 to 1,278 applications in license/other.

In order to reduce the fiscal year 1985 backlogs to acceptable levels, the Mass Media Bureau would require 30 additional full-time permanent applications processing positions in fiscal year 1984 as shown in the following tables:

FM NEW AND MAJOR CHANGE PROJECTIONS

	Pending start of year	Receipts	Disposals	Pending end of year	Work years	Disposals per work years
Current staff levels:						
Fiscal year 1983.....	1,165	970	720	1,415	23.5	30.7
Fiscal year 1984.....	1,415	1,000	760	1,655	24.9	30.5
Fiscal year 1985.....	1,655	1,100	800	1,955	24.9	32.1
Proposed staff levels:						
Fiscal year 1983.....	1,165	970	788	1,347	¹ 25.6	30.7
Fiscal year 1984.....	1,347	1,000	1,247	1,100	² 40.9	30.5
Fiscal year 1985.....	1,100	1,100	1,570	630	³ 48.9	32.1

¹ Detail 5 additional people from Apr. 1, 1983 through Sept. 30, 1983. This adds 2.1 workyears to fiscal year 1983 base (assume 1 month of nonproductive training).

² 24 additional positions authorized for fiscal year 1984. Assuming 25 percent hiring lapse plus 1 month of nonproductive training results in 16 additional workyears during fiscal year 1984.

³ No additional staff in fiscal year 1985. 24 new fiscal year 1984 positions onboard for 12 months in fiscal year 1985 (no lapse in workyears).

Note: A backlog of 630 cases would be considered acceptable.

FM LICENSE AND OTHER PROJECTIONS

	Pending start of year	Receipts	Disposals	Pending end of year	Work years	Disposals per work years
Current staff levels:						
Fiscal year 1983.....	977	1,610	1,260	1,327	10.2	123.5
Fiscal year 1984.....	1,327	1,660	1,320	1,667	10.4	126.9
Fiscal year 1985.....	1,667	1,750	1,400	2,017	10.4	134.6
Proposed staff levels:						
Fiscal year 1983.....	977	1,610	1,309	1,278	¹ 10.6	123.5
Fiscal year 1984.....	1,278	1,660	1,877	1,111	² 14.4	126.9
Fiscal year 1985.....	1,111	1,750	2,207	654	³ 16.4	134.6

¹ Detail 5 additional person from Apr. 1, 1983 through Sept. 30, 1983. This adds 0.4 workyears to fiscal year 1983 base (assume 1 month of nonproductive training).

² 6 additional positions authorized for fiscal year 1984. Assuming 25 percent hiring lapse plus 1 month of nonproductive training results in 4 additional workyears during fiscal year 1984.

³ No additional staff in fiscal year 1985. 6 new fiscal year 1984 positions onboard for 12 months in fiscal year 1985 (no lapse in workyears).

Note: A backlog of 654 cases would be considered acceptable.

In addition to the 30 applications processing staff, 1 engineering programmer is required to develop and implement technical computer programs to expedite FM processing. The programming modifications involve conversion of the present batch method of updating the engineering data base to an interactive, on-line update capability. These software enhancements would eliminate the current time-consuming and awkward update methods and increase staff productivity.

In the AM new and major service, five additional positions are required in fiscal year 1984 to recoup production losses suffered from reallocating staffing resources from within the Bureau during fiscal year 1983 to implement presunrise and post-sunset operations for daytime-only AM stations. Four applications processing positions would reduce the yearend backlog by 24 percent, and one computer support position would rectify major defects in our engineering computer programs that otherwise would have been addressed during fiscal year 1983. These include programming changes to reduce significantly the amount of manual intervention required by staff engineers in conducting computerized interference studies, updating programs to incorporate revised technical standards and adding subroutines to eliminate the need for many technical calculations now performed manually.

In the TV/translator license and other area, two additional positions would hold the pending count in fiscal year 1984 at the fiscal year 1983 level; without them, the pending count could climb as high as 216 percent above the fiscal year 1983 level due to increased activity and complexity as a result of low power TV authorizations.

We could improve the timeliness of processing certain applications and save valuable computer time and personnel resources if computer programs were in place. First, by converting the TV data base update system to operate on the LPTV mini-computer we could save considerable waiting time and computer time in processing LPTV applications. This task would require one additional computer programmer for the Mass Media Bureau. The second program, Antenna Survey Branch enhancements, would eliminate the need to forward the antenna survey forms to the Antenna Survey Branch in the Field Operations Bureau. The ASB data would be extracted from the forms and entered into the appropriate data base by mass media staff, awaiting ASB action. ASB status would then be tracked on-line by processing personnel with final painting and lighting specifications automatically mapped to the BAPS authorization record. We estimate that one additional computer programmer would be required to accomplish the ASB enhancements.

Since the Commission has not taken final action on the agenda proposals concerning new FM allocations and daytime-only AM station assignments on class I-A clear channels, we do not believe that it is appropriate at this time to discuss the resource impact of these proposals.

	Positions.	Work years	Compensation/ benefits (in thousands)
Summary by service category—fiscal year 1984:			
AM—new and major	5	4	\$122
FM—new and major	25	20	493
FM—license and other	6	5	116
LPTV new and major	1	1	26
TV/ translators new and major	2	2	33
Across all services	1	1	26
Total, all services	40	33	816

Question. What plans have been made to use computers to automate license processing?

Answer. By mass media bureau:

As indicated in last year's testimony, we have successfully implemented computer-generated authorizations in our auxiliary service processing area.

Also, we have issued computer-generated postcard renewal authorizations beginning with the June 1, 1983 renewal group.

In fiscal year 1983 we are planning to issue computer-generated authorizations in the LPTV, TV and FM areas. The TV authorizations were originally scheduled for the end of fiscal year 1982 but had to be rescheduled for fiscal year 1983 due to the priorities of DBS and LPTV. Computer-generated AM authorizations are scheduled for fiscal year 1984. In order to successfully implement these computer-generated authorization programs, however, we will need additional computer terminals for the processing staff.

As also indicated in last year's testimony, we are in the process of converting our Broadcast Applications Processing System (BAPS) data base to a DM-IV format, a data base management system which allows for on-line update and retrieval. Phases I and II of this conversion process are scheduled for completion this fiscal year. The conversion allows quicker input of application data, easier retrieval of tracking information, and finally, more efficient management of the overall data base functions.

A requirement to automate the present manual antenna survey notification has recently been identified. Initial analysis indicates that engineering/processor research time can be eliminated by incorporating an automated antenna survey system into the BAPS data entry and authorization functions. Due to a limited computer staff, and a final definition of Commission priorities for utilizing this staff, this project may not be implemented until fiscal year 1985.

Finally, with the establishment of the mass media bureau, we have been able to eliminate duplicative manual recordkeeping systems (similar records formerly kept by the license division, broadcast facilities division, and the renewal and transfer

division.) Depending on the availability of necessary computer hardware (specifically terminals), the audio services division plans to eliminate all manual tracking systems within the branches by using the BAPS data base and accessible computer terminals to serve as the automated tracking system indicating not only receipt of an application but who actually has the file and its exact status.

The most difficult roadblock to further automated license processing is the lack of adequate, skilled computer staff to handle the volume of new programming required.

Answer. By Office of Managing Director:

Computer equipment is currently supporting license processing in our Gettysburg facility by tracking the status of the bulk of the agency's license applications. In addition, the equipment supports our equipment type certification program at the Laurel, Md. laboratory.

Work is now underway to design a fully automated land mobile license application processing system (ALMAPS) for the Gettysburg facility. A minicomputer will replace the current distributed processing network equipment as well as the (leased) Entrex data entry facility at that site. The system will interface with the automated nongovernment master frequency file in the central site Honeywell mainframe computer. The system is being implemented in phases. Phase I will automate the renewal notifications and renewal licenses by June 1983. Phase II encompasses all data entry, applications tracking and Canadian clearance processing, to be completed during fiscal year 1984.

The automated amateur licensing system has been redesigned during the first quarter of fiscal year 1983 and now permits on-line queries against the data base and the automatic assignment of call signs.

We also plan to reengineer our automated microwave licensing systems for all services using data base management technology. This effort will be completed by the end of fiscal year 1984.

The automated broadcast applications processing system (BAPS) is being redesigned to place it on-line using data base management technology. This will be completed this fiscal year.

A data base management system for cellular radio license applications was implemented during the first quarter of fiscal year 1983.

An automated low power television licensing system, which will interface with the broadcast applications processing system, is being implemented on a dedicated minicomputer. It should be fully operational by summer 1983.

It should be noted that all of the Commission's licensing systems are presently automated to varying degrees. Our on-going efforts to enhance a number of these systems will insure that the agency's licensing systems are fully supported by the latest automated hardware and software tools available.

Political broadcasting

Question. The 1984 elections will be ongoing during fiscal year 1984 and fiscal year 1985. Do you intend to have the same number of staff and the same resources devoted to administering and enforcing the political broadcasting laws as existed during the 1980 elections?

Answer. Over the past several years we have operated with eight people in the fairness political broadcasting branch. During the 1980 election year, we had between seven and nine employees—average of eight—for the year. During the 1984 elections, we will devote the necessary resources to administer and enforce the political broadcasting laws. We have eight staff members associated on a regular basis with this program and should additional resources be needed, they will be provided through details from other locations in the Mass Media Bureau.

Cable

Question. The Commission is currently reviewing its franchise fee ceiling regulation and its must carry rules. What is the priority of these proceedings, and when do you expect to complete them?

Answer. The franchise fee ceiling proceeding is expected to be resolved by the end of the fourth quarter, fiscal year 1983. The saturated systems rulemaking also is scheduled for resolution by the end of the fourth quarter, fiscal year 1983. We have not accepted the petition for rulemaking to eliminate the must carry rules filed by Ted Turner. However, in light of the relation between these proceedings and pending legislative issues that could make our actions moot, we have not assigned high priority to these rulemakings.

Miscellaneous

Question. A petition by the Los Angeles Sheriff's Department is before the Commission. What is its status?

Answer. On September 1, 1981, the Commission received a petition from the Los Angeles County Sheriff requesting reallocation of UHF TV channels 14 through 20 to the private land mobile radio services [RM-3975]. In response to the Commission's September 21 public notice regarding receipt of the petition, several hundred comments were filed by members of the public, including users in other radio services competing for this spectrum. Some of these are very broad in scope. Currently, the staff is reviewing these comments in order to advise the Commission of the public's stated position and desires on this issue. This work must be done along with similar efforts on other petitions involving these frequencies, including petitions which were received prior to the receipt of RM-3975, in order to retain broad perspective on the spectrum in question.

Additionally, the Commission has undertaken several other actions which will also affect the disposition of the Sheriff's petition. The Private Radio Bureau has initiated an overall study of future land mobile radio requirements to the year 2000; this will assess the needs of various users, including public safety users, and will include analysis of opportunities provided by new technologies. The Office of Science and Technology is conducting field studies of radio propagation in the special conditions caused by the proximity of ocean and mountains in southern California; these studies will determine how closely radio stations may be spaced there and, thus, what density of radio spectrum usage could be expected. Both of these efforts will be completed later this year. The staff is also evaluating the impact of using UHF channels for land mobile services instead of television in certain areas, and the results will be reported about midyear. Finally, the Commission has made a proposal in general docket 80-739 to implement the international allocations made by the 1979 World Administrative Radio Conference for general nationwide shared use of the UHF spectrum by broadcasting and land mobile services. Comments and reply comments on this proposal are due on March 10, 1983, and April 11, 1983, respectively.

After these activities are completed, the Commission will be in a position to assess the best course of action with regard to the Sheriff's petition. We expect the relevant studies to be completed in time for the Commission to address the issues this fall.

COMMON CARRIER

New services

Question. You have mentioned new service initiation prominently in your testimony, yet the above delays indicate a lack of commitment. Are you considering moving staff to complete these proceedings more rapidly? Are you planning to introduce any new service proposals of your own?

Answer. In the common carrier area, the Commission is taking actions to permit the initiation of several new services. The new service that will have perhaps the greatest impact on the communications market is cellular radio. The Commission completed its rulemaking proceeding on cellular in March 1982 and has now received a total of 1153 applications for the top 90 markets. On November 1, 1982, the Commission issued the first cellular construction permit and simultaneously instituted the first comparative hearings. To date, there have been nine construction permits issued and twelve comparative hearings designated. The Commission hopes to have all the applications in the top thirty markets granted or placed in hearing by June 1983. While there has been no undue delay thus far, it is clear from the number of applications, amendment to applications, and related pleadings that it will take a long time to process the markets below the top 30. Nearly all of the work is currently being performed by 16 professional and nonprofessional employees in the Common Carrier Bureau's Mobile Services Division, and after hearing designation, by the administrative law judges and their staff of four professional assistants. The decisions by the administrative law judges must also be reviewed by the Commission. Therefore, there will be significant delay in bringing these important new communication services to the public in all by the very largest cities, and it is likely that the mutually exclusive applications in markets 30-90 will not even be designated for hearing for some years. Because of this projected delay, the Commission is asking Congress for a supplemental appropriation to process cellular applications.

The Commission has also allocated new frequencies for existing and new one-way paging services. In a report and order released in May 1982, the Commission allocated 40 frequencies in the 900 MHz band for paging. Thirty-seven of these frequen-

cies were allocated for local paging services. Three of the frequencies were specifically allocated for a new nationwide paging service. The Commission initially determined that the nationwide service should be provided through sharing arrangements based on the achievement of unanimous agreement among participants within 1 year of the Commission's order. Petitions for reconsideration of this decision proposed alternatives to the Commission's plan including the acceptance of a plurality rather than unanimous agreement on sharing or carrier's carrier approach through which each participant would make arrangements with an organizing carrier for the use of a particular frequency. The Commission will act of these petitions in the near future.

Another new service that has been initiated is Digital Electronic Message Service [DEMS]. This service involves the use of the radio spectrum for high speed digital networks for the nationwide communications of business information such as facsimile computer data and teleconferencing. The service was proposed by the Xerox Corp. in November 1978. In response to this proposal, the Commission initiated a rulemaking proceeding and ultimately allocated 130 MHz in the 10.6 GHz band for local distribution. The Commission set aside a portion of that spectrum for extended networks—those networks serving thirty or more standard metropolitan statistical areas—and another portion of that spectrum for limited networks—systems serving fewer than 30 cities. Various technical and procedural rules were also adopted to govern DEMS. Although Xerox has abandoned its original plans to provide DEMS, the Commission has received 33 applications for extended and limited network DEMS systems. Several of these applications have been granted. However, none of the systems is yet in operation.

Finally, the Commission is also examining the desirability and feasibility of real-locating the frequencies in the 2500-2690 MHz band to provide additional channels for the Multipoint Distribution Service [MDS] and the Private Operational Fixed Microwave Service [OFS]. In general docket No. 80-112, the Commission proposed to reallocate the 2500-2690 MHz band for shared use by IFTS—11 channels—MDS—10 channels—and OFS—10 channels. The Commission also requested other channel allocation proposals. In February 1982, Microband Corp. of America filed a new proposal to remove three groups of four channels each from the present ITFS allocation and to allocate them for MDS use.

License processing

Question. What plans have been made to use computers to automate license processing?

Answer. The Domestic Facilities Division of the Common Carrier Bureau has computerized records of all applications showing the date they were received and the date they were granted. At the current time we track how many applications are currently pending at the end of each month in each service, how many were filed and how many were acted upon that month. This information is contained in a monthly report.

The increasing reliance on word processing equipment also should make the staff more efficient in preparing orders, authorizations, public notices, etc., and therefore permit increased output per person. A new computer to be installed in the domestic facilities division is also capable of being programmed to perform other tasks. Employees are being trained in a computer languages and operating systems to allow use of the full capability of the computer facility.

The Mobile Services Division also makes extensive use of computer facilities in issuing construction permits and frequency authorizations and in making frequency and interference checks. The staff currently is examining ways of improving and expanding the use of computers in the processing of domestic land mobile and cellular radio license applications.

Common carrier

Question. Last year, the Commission issued two NOI's concerning Intelsat services: ownership of earth stations and cost based access. Do you plan to issue NPRM's for these proceedings? When do you expect to complete action?

Answer. We expect to issue an NPRM on earth station ownership late in the Spring, perhaps in May. A decision on whether or not to issue an NPRM on cost-based access will be made by June. Both proceedings should be completed before the end of 1983.

Question. The Commission has just released an NPRM on whether the divested Bell regional holding companies have to establish a separate subsidiary to offer CPE. What will be the key factors used in determining whether a separate subsidiary is necessary? When will this processing be completed?

Answer. In the Notice of Proposed Rulemaking in CC Docket No. 83-115, released March 4, 1983, the Commission discussed the following decisional factors with respect to the applicability of a separate subsidiary requirement for the divested Bell companies: (a) a carrier's ability to engage in anticompetitive activity through control over "bottleneck" facilities, that is, local exchange and toll transmission facilities, on a broad national geographic basis; (b) a carrier's ability to engage in cross-subsidization to the detriment of the communications ratepayer; (c) the integrated nature of the carrier and affiliated entities, with special emphasis upon research and development and manufacturing capabilities that are used in conjunction with, or are supported by, communications derived revenues; and (d) the carrier's possession of sufficient resources to enter the competitive market through a separate subsidiary. The Commission will also examine other decisional factors that may be relevant to the issue or that may be raised by parties commenting on the NPRM. The pleading cycle will be completed in May 1983 and a final decision should be made by the Commission soon thereafter.

Question. When will the Commission decide when embedded CPE is to be deregulated?

Answer. Various proposals for the timing and manner of deregulation of embedded CPE currently are being reviewed by the Commission staff. The Commission is interested in making a final decision on this matter as soon as possible, and there are good reasons for deregulating embedded CPE before January 1, 1984. However, several important considerations must be taken into account, including the price of transfer of BOC embedded CPE to AT&T's subsidiary. If we are assured that neither the regulated carriers nor their customers will be adversely affected by the transfer, deregulation may be ordered before divestiture takes place.

Question. Is the Commission considering expanding the competitive carrier proceeding to include the radio common carrier industry and its markets? If so, when will the Commission proceed?

Answer. The Commission does not plan to include the radio common carriers (RCC's) in the immediate next stage of its carrier competitive rulemaking. Currently, the regulation of RCC's is conducted primarily under title III, rather than title II, of the Communications Act. The Commission requires information on the placement and height and power of antennas and verification of the lack of interference among stations. However, the Commission imposes no financial or legal requirements on the RCC's for licensing purposes. The RCC's must obtain State certification after being licensed by the FCC, and since RCC's operations are primarily intrastate in nature, tariffs are also generally filed at the State level.

Question. In the just released access charge decision, the Commission established a Universal Service Fund, the details of which are to be filled in by the Joint Board. In general, how much money will be in this fund? Which states and which groups should be the beneficiaries of this fund?

Answer. The amount of money in the Universal Service Fund will be determined in the Joint Board proceeding on separations in CC Docket No. 80-286. The Joint Board is expected to make its recommendation in April 1983. This recommendation must be reviewed by the Commission. The Universal Service fund is intended to benefit the subscribers of high cost carriers.

Question. How is the FCC's plan (in 78-72) to charge an intercity carrier according to the number of switches and trunks used by that carrier consistent with the consent decree requirement to charge all carriers equally for distribution of similar traffic?

Answer. The Commission attempted to devise an access charge that would meet the goals of network efficiency, and universal service. To the extent possible it also attempted to accommodate consent decree requirements. We believe that if a carrier requires dedicated facilities such as trunks, it should pay the costs of these facilities, and we have written rules to this effect. The consent decree requires cost-based access charges. In principle, therefore, our approaches are the same.

Question. In 78-72, does the FCC assume that OCC's will be able to use the same type of local distribution facilities that AT&T uses?

Answer. The access charge order assumes that access quality now available to AT&T will not be fully available to OCC's for several years and incorporates a premium surcharge to account for this benefit to AT&T. Furthermore, the order recognizes that, initially at least, carriers are likely to continue to use facilities similar to those that they now use. Access, however, is to be provided under tariff. What this means is that, if OCC's and AT&T wish to use similar distribution facilities for interexchange services and if these facilities are made available to any, both carriers would be free to purchase them.